



ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia  
Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia  
Chambres extraordinaires au sein des Tribunaux cambodgiens

Royaume du Cambodge  
Nation Religion Roi

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត  
Office of the Co-Investigating Judges  
Bureau des co-juges d'instruction

Case File No: 004/07-09-2009-ECCC-OCIJ

Before: **The Co-Investigating Judges**  
Date: **09 November 2016**  
Language(s): **Khmer/English [English Original]**  
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..... S. ANN RADA .....		

**NOTIFICATION PURSUANT TO INTERNAL RULE 66 bis (2)**

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## I. PROCEDURAL HISTORY

1. On 19 April 2016, in my Request for Comments Regarding Alleged Facts Not To Be Investigated Further (“Request for Comments”), I informed the parties of my intention not to further investigate certain facts.<sup>1</sup>
2. Ao An filed comments on 18 May 2016,<sup>2</sup> and the International Co-Prosecutor (“ICP”) filed comments on 3 June 2016.<sup>3</sup>
3. On 25 August 2016, in my Notice of Provisional Discontinuance Regarding Individual Allegations<sup>4</sup> (“Notice of Provisional Discontinuance”), I informed the parties that I would not further investigate the following facts alleged in the ICP’s submissions, which *prima facie* appear to be subject to Internal Rule 66 *bis*:
  - a) **Fact A:** All allegations relating to crime sites in Sectors 42 and 43:
    - Tuol Ta Phlong Security Centre<sup>5</sup>
    - Wat Kandal Security Centre<sup>6</sup>
    - Chamkar Svay Chanty Security Centre<sup>7</sup>
    - Wat Baray Chan Dek Security Centre<sup>8</sup>
    - Wat Srange Security Centre<sup>9</sup>
  - b) **Fact B:** The arrests and executions of Cham in the Eastern Zone<sup>10</sup>
  - c) **Fact C:** Torture at Tuol Beng / Wat Angkuonh Dei<sup>11</sup>
  - d) **Fact D:** Imprisonment and persecution at Wat Phnom Pros<sup>12</sup>

## II. DISCUSSION

4. Rule 66 *bis* (2) provides that, before reducing the scope of the judicial investigation, I shall notify the details of the intended reduction to the parties, who in turn will have 15 days to file submissions.
5. For the reasons stated in the Notice of Provisional Discontinuance, I intend to exclude Facts A, B, C, and D from the investigation pursuant to Internal Rule 66 *bis* at the time of the conclusion of the investigation.
6. I am of the opinion that, after exclusion of Facts A, B, C, and D at the time of the conclusion of the investigation, the remaining facts will be representative of the

<sup>1</sup> Case File No. 004-D307, *Request for Comments Regarding Alleged Facts Not To Be Investigated Further*, 19 April 2016, paras. 3, 7.

<sup>2</sup> Case File No. 004-D307/1, *Ao An’s Submissions in Response to the International Co-Investigating Judge’s Request for Comments Regarding Alleged Facts Not To Be Investigated Further*, 18 May 2016.

<sup>3</sup> Case File No. 004-D307/2, *International Co-Prosecutor’s Response to the International Co-Investigating Judge’s Request for Comments regarding Alleged Facts Not To Be Investigated Further*, 3 June 2016.

<sup>4</sup> Case File No. 004-D307/3, *Notice of Provisional Discontinuance Regarding Individual Allegations*, 25 August 2016. It should be noted that sets of allegations are being referred to as one fact.

<sup>5</sup> IS, paras. 50-51.

<sup>6</sup> IS, para. 52.

<sup>7</sup> IS, para. 34.

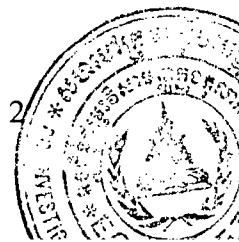
<sup>8</sup> IS, para. 53.

<sup>9</sup> IS, para. 49.

<sup>10</sup> IS, paras. 45-46.

<sup>11</sup> IS, paras. 30-33; 2SS, para. 11; OCP Response, paras. 1-2.

<sup>12</sup> IS, para. 30-31.



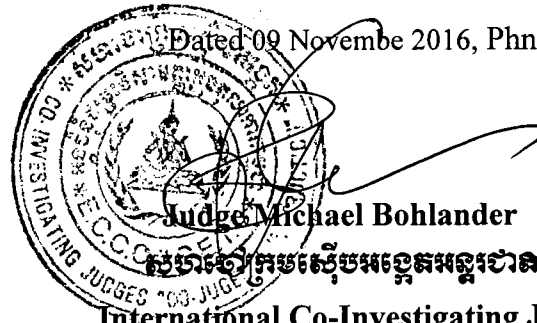
scope of the Submissions geographically, temporally and substantively, in terms of the nature and scale of crimes and the categories of victims.

- 7. As I have stated previously, Internal Rule 66 *bis* (5) makes clear that, upon the exclusion of facts, the evidence relating to these facts may still be relied upon insofar as it is relevant to the remaining facts.
- 8. Exclusion of Facts A, B, C, and D will not affect the status of Civil Parties or the right of Civil Party applicants to participate in the judicial investigation.

**FOR THE FOREGOING REASONS, I:**

- 9. **NOTIFY** the parties pursuant to Internal Rule 66 *bis* (2) of my intention to exclude Facts A, B, C, and D from the investigation pursuant to Internal Rule 66 *bis*;
- 10. **INVITE** the parties to file submissions in accordance with Internal Rule 66 *bis* (2) within 15 days from the date of this notification;
- 11. **CONSIDER** nevertheless that I remain seized of all the aforementioned facts and that this notification does not prejudice my ability to resume the investigation on these facts should I decide that there is reason to do so; and
- 12. **INFORM** the parties that replies and responses to other parties' Internal Rule 66 *bis* (2) submissions will not be admitted.

Dated 09 Novembre 2016, Phnom Penh



**Judge Michael Bohlander**  
**សមាជិកក្រុមស៊ើបអង្កេតអន្តរជាតិ**  
**International Co-Investigating Judge**  
**Co-juge d'instruction international**