



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

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Before: **The Co-Investigating Judges**
 Date: **14 June 2016**
 Language(s): **English [Original]**
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**SECOND DECISION ON YIM TITH'S URGENT REQUEST
CONCERNING DEFENCE'S RESOURCES**

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I. PROCEDURAL HISTORY

1. Disagreements between the Co-Investigating Judges (“CIJs”) in this case were registered on 22 February 2013, 5 April 2013, and 21 October 2015.
2. On 1 June 2016, the Yim Tith Defence (“Defence”) requested the CIJs to direct the Defence Support Section (“DSS”) to:
 - a. Confirm that the Defence can, at the very least, prepare their case with the originally notified budget, which was of \$210,000;
 - b. Immediately provide a *pro bono* Expert Consultant contract to Mr Neville Sorab for the duration until he is assigned as an international Co-Lawyer for the Defence; and
 - c. Consider Mr Sorab’s application, dated 18 April 2016, to be placed on the DSS list of foreign Co-Lawyers pursuant to Rule 11(2)(d)(ii) (“April 2016 Application”).¹
3. On 7 June 2016, I issued a decision where I denied point c. of the Defence’s request (“First Decision”).² In the First Decision, I informed the Defence that, in order to decide on point a., including whether I had jurisdiction to rule on the request, I needed to know:
 - a. the date on and the manner in which the Defence learnt from DSS that their budget amounted to \$210,000; and
 - b. the date on which DSS learnt that the available budget was in fact only \$180,000.³
4. With regard to point b. of the Defence’s request, I gave my preliminary view of the issue but did not rule on it, as I decided to give the Chief of Human Resources a chance to make submissions on the issues involved in point b., if he so wished.⁴ I remained seised of the Defence’s request.⁵
5. On 9 and 10 June 2016, the Defence and DSS respectively filed the submissions I requested in relation to point a. of the Defence’s request (“DSS Submissions” and “Defence Submissions”).⁶

II. DISCUSSION

A. Request to confirm that the Defence budget is of \$210,000

6. In paragraph 7 of the DSS Request, the Chief of DSS confirms that the budget level of \$210,000 for each Defence team will be maintained in 2016. I therefore find point a. of the Defence’s request to be moot.

¹ Case File No. 004-D312, *Yim Tith’s Urgent Request for the Co-Investigating Judges to Direct the Defence Support Section to Provide the Yim Tith Defence Team with the Resources it Was Originally Allocated*, 1 June 2016 (“Request”), p. 15.

² Case File No. 004-D312/1, *Decision on Yim Tith’s Urgent Request Concerning Defence’s Resources*, 7 June 2016, paras 20-21, 25.

³ First Decision, paras 3, 23.

⁴ First Decision, para. 17.

⁵ First Decision, paras 23-26.

⁶ Case File No. 004-D312/2, *Further Information Provided pursuant to D312/1*, 9 June 2016; Case File No. 004-D312/3, *DSS Report to the Co-Investigating Judges on Yim Tith’s Urgent Request concerning Defence’s Resources*, 10 June 2016.



B. Request to provide a *pro bono* Expert Consultant contract to Mr Neville Sorab

- 7. In light of paragraphs 11 to 12 of the DSS Submissions, I find that point b. of the Defence’s request is also moot.
- 8. In this regard, I inform DSS that I agree to grant Mr Neville Sorab access to Case File 004 through Zylab to the same extent as it is granted to the other legal consultants working for the Defence and for as long as it is requested by the Co-Lawyers. Prior to authorising access, however, Mr Sorab must sign the confidentiality undertaking and any other applicable undertaking normally signed by legal consultants for the Defence.
- 9. This decision is filed in English, with a Khmer translation to follow.

FOR THE FOREGOING REASONS, I:

- 10. **DECLARE** points a. and b. of the Defence’s request moot; and
- 11. **INFORM** DSS that I consent to Mr Sorab’s access to Case File 004 through Zylab provided that all the relevant undertakings are signed by Mr Sorab before access to the Case File is granted.

Dated 14 June 2016, Phnom Penh



Judge Michael Bohlander

សហចៅក្រមដើមអន្តរជាតិ

**International Co-Investigating Judge
Co-juge d’instruction international**