



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: 5 August 2016  
Language(s): English  
Classification: CONFIDENTIAL

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**DECISION ON REQUEST FOR NAMES AND PSEUDONYMS OF  
CASE 002 WITNESSES**

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## I. PROCEDURAL HISTORY

1. Disagreements in this case were signed on 22 February and 5 April 2013 and on 22 January 2015.
2. On 23 May 2016, Yim Tith Defence (“Defence”) wrote a letter to the Co-Investigating Judges (“CIJs”) requesting the names of two witnesses who were scheduled to testify in Case 002/02 under pseudonym on topics relevant to Case 004 but the Defence had no way to ascertain if they were also witnesses in the judicial investigations.<sup>1</sup>
3. The Defence submit that the Request is necessitated by the two witnesses who were scheduled to testify under pseudonyms on the topic of Trapaeng Thma Dam and the Treatment of Vietnamese in Case 002, but it was unclear whether they were witnesses disclosed by the International Co-Investigating Judge (“ICIJ”).<sup>2</sup> The Defence state that while the pseudonyms are necessary vis-à-vis the public, they are not intended to keep the identity of such witnesses confidential from the Defence.<sup>3</sup>
4. I was first seised of a request for names of Case 002 witnesses testifying with pseudonyms which were disclosed from ongoing judicial investigations in relation to Case 004 on 29 February 2016.<sup>4</sup>
5. On 10 June 2016, I requested the Trial Chamber’s permission to provide the names of those Case 002 witnesses testifying with pseudonyms who are also part of the investigations in Cases 003 and 004 to the respective Defence teams.<sup>5</sup>
6. On 11 July 2016, the Trial Chamber noted that the pseudonyms assigned to Case 002 witnesses are intended to prevent media scrutiny prior to their testimony and protective measures for the actual testimony or the transcripts generated thereafter are sparingly imposed.<sup>6</sup> As such, the Trial Chamber authorised me to “disclose to members of all defence teams in Case 003 and Case 004 [...] the pseudonyms assigned by the Trial Chamber to those individuals testifying in Case 002/02 whose evidence was provided in Case 003 and Case 004.”<sup>7</sup> The Chamber added that all other restrictions noted in the ICIJ Memo would apply and that it reserves the right to withhold names to give effect to protective measures in specific cases, should it become necessary.<sup>8</sup>
7. Accordingly, I provide the list of names and pseudonyms of Case 002/02 witnesses who are also witnesses in Case 004 to the Defence in an Annex to this decision with the following conditions and restrictions.
8. This decision is filed in English, with a Khmer translation to follow.

<sup>1</sup> Case 004-D319, *Yim Tith Request for Disclosure of Identities of 2-TCW-876 and 2-TCCP-234*, 23 May 2016 (“Request”), p. 1.

<sup>2</sup> Request, p. 1.

<sup>3</sup> *Ibid.*

<sup>4</sup> Case 004-D300, *Ninth Request for investigative Action*, 29 February 2016, para. 1(c).

<sup>5</sup> Case File No. 004-D313, *Strictly Confidential Memorandum from ICIJ to Trial Chamber*, 10 June 2016.

<sup>6</sup> Case File No. 004-D313/1, *Strictly Confidential Memorandum from Trial Chamber to the ICIJ*, 11 July 2016 (“Trial Chamber Memo”), para. 2.

<sup>7</sup> Trial Chamber Memo, para. 3.

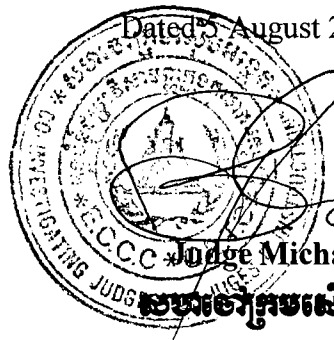
<sup>8</sup> *Ibid.*



**FOR THE FOREGOING REASONS, I:**

- 9. **GRANT** the Request;
- 10. **ORDER** the Defence to keep confidential all information provided in the Annex;
- 11. **ORDER** the Defence to keep confidential the fact the witnesses they follow in court or review following their testimony are also witnesses in the Case 003 judicial investigations;
- 12. **ORDER** the Defence to provide the Annex to only those members of its team who are officially retained, under Internal Rules 22(5) and 12ter (4), including the officially assigned intern; and
- 13. **DIRECT** the Greffier to reclassify the ICIJ Memo D313 as Confidential.

Dated 5 August 2016, Phnom Penh



**Judge Michael Bohlander**  
**សមាជិកក្រុមស៊ើបអង្កេតអន្តរជាតិ**

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