



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: 004/2/07-09-2009-ECCC-OCIJ

Before: **The Co-Investigating Judges**  
Date: **28 April 2017**  
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**DECISION ON CIVIL PARTY APPLICANTS' REQUESTS FOR PROTECTIVE MEASURES**

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## I. PROCEDURAL HISTORY & DISCUSSION

1. Disagreements between the Co-Investigating Judges (“CIJs”) in Case 004/2 were registered on 22 February 2013, 5 April 2013, 22 January 2015, 21 October 2015, and 16 January 2017.
2. Since the opening of the judicial investigation in Case 004/2, 1922 people have applied to become Civil Parties in Case 004/2. In their Victim Information Forms (“VIFs”) filed with the Office of the Co-Investigating Judges (“OCIJ”) in Case 004, 185 applicants (“Requesting Applicants”) requested that the CIJs order protective measures pursuant to Internal Rule 29 (“Protective Measures Requests”).<sup>1</sup>
3. On 16 September 2015, I requested the Witness and Expert Support Unit (“WESU”) to conduct an assessment of the circumstances relevant to the Protective Measures Requests of 254 Civil Party applicants across Cases 003, 004, 004/1 and 004/2.<sup>2</sup>
4. On 9 January 2017, Défenses Sans Frontières (“DSF”) notified OCIJ that two Requesting Applicants had withdrawn their requests for protective measures.<sup>3</sup>
5. On 31 January 2017, Civil Party lawyer Ty Srinna notified the OCIJ that of the Requesting Applicants she represents, eleven had decided to withdraw their Protective Measures Requests, two were deceased, and seven wished to maintain their Protective Measures Requests. She also withdrew the Protective Measures Requests of three Requesting Applicants whom she was unable to reach, on their behalf.<sup>4</sup>
6. On 1 February 2017, Civil Party lawyer Chet Vanly notified the Victims Support Section and OCIJ that one Requesting Applicant whom she represented was deceased.<sup>5</sup>
7. WESU met with a total of 170 Civil Party applicants, including 132 of the Requesting Applicants, and provided them with information about the proceedings at the ECCC and the nature, role and purpose of protective measures.<sup>6</sup> WESU also reported that the Civil Party lawyers had notified them of the withdrawal of the Protective Measures Requests of 9 Requesting Applicants and that 12 Civil Party applicants, including 11 Requesting Applicants, are deceased.<sup>7</sup>
8. In their assessments, WESU indicated that all 132 Requesting Applicants they had met with had withdrawn their Protective Measures Requests, and that, in any event, their assessment concluded that no protective measures were required for them.<sup>8</sup>

<sup>1</sup> *List of Requesting Applicants.*

<sup>2</sup> Case File No. 004/2-D264, *Memorandum from ICIJ to WESU concerning “Request for WESU assistance in relation to Civil Party requests for protective measures”*, 16 September 2015.

<sup>3</sup> *Email from DSF to OCIJ*, 9 January 2017.

<sup>4</sup> Case File No. 004/1-D310.3, *Annex C: Email from Ty Srinna to OCIJ*, 31 January 2017; Case File No. 004/1-D310.4, *Annex D: List Attached to Email from Ty Srinna to OCIJ*, 31 January 2017.

<sup>5</sup> Case File No. 004/1-D310.5, *Annex E: Email from Chet Vanly to VSS and OCIJ*, 1 February 2017.

<sup>6</sup> Case File No. 004/1-D310.2, *Annex B: Memorandum from WESU to ICIJ concerning “Update on Requests for Protective Measures by Civil Party Applicants”*, 23 February 2017.

<sup>7</sup> *Ibid.*

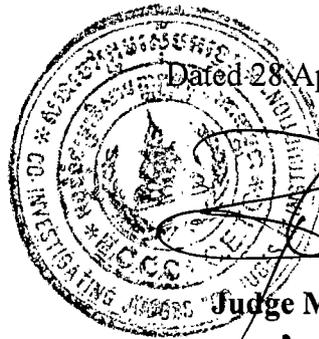
<sup>8</sup> *Ibid.*



- 9. In light of the assessments made by WESU and the email communication with DSF, and Civil Party lawyers Ty Srinna and Chet Vanly, I conclude that the Protective Measures Requests of 14 Requesting Applicants who are deceased and 146 Requesting Applicants who have withdrawn their Protective Measures Requests are moot.
- 10. WESU and the Civil Party lawyers were unable to meet with the remaining 25 of the 185 Requesting Applicants.
- 11. On 20 March 2017, the CIJs rejected the Protective Measures Requests of 24 Requesting Applicants in Case File 004/1.<sup>9</sup> The assessment of the CIJs is annexed to this Order.<sup>10</sup>
- 12. I have carried out an individual assessment of the Protective Measures Requests of the remaining Requesting Applicant, based on the information provided in her VIF.
- 13. I find that the Protective Measures Request is unsubstantiated and should thus be rejected on this basis.<sup>11</sup>

**FOR THE FOREGOING REASONS, I:**

- 14. **INSTRUCT** the OCIJ Greffier to place onto Case File 004/2 the documents listed in Annex 1;
- 15. **DECLARE** that the Protective Measures Requests of the Requesting Applicants listed in Annex 2 are moot;
- 16. **REJECT** the remaining Protective Measures Request made by the Requesting Applicant listed in Annex 3.



Dated 28 April 2017, Phnom Penh

Judge Michael Bohlander

សមាជិកអង្គប្រឹក្សាអន្តរជាតិ

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

<sup>9</sup> Case File No. 004/1-D310, *Decision on Civil Party Application's Request for Protective Measures*, 20 March 2017.

<sup>10</sup> Case File No. 004/1-D310.7, *Annex G: List of Requesting Applicants Assessed by the CIJs*, 20 March 2017.

<sup>11</sup> Annex 3: *Requesting Applicant Assessed by the ICIJ*.