

Notice of Non-Recognition of Summons

I, **Mr. MEAS Muth**, inform Co-Investigating Judge Harmon that I do not recognize the summons issued to me to appear at the ECCC on 8 December 2014 for an Initial Appearance. This summons was issued by Co-Investigating Judge Harmon. Co-Investigating Judge You Bunleng's signature is not on the summons. I therefore do not consider it to be a valid summons from both Co-Investigating Judges.

I insist that my lawyers be permitted to access the Case 003 Case File and to participate in the judicial investigation against me. My lawyers have been requesting Case File access for over one year, since 29 August 2013.¹ I have been on notice that I have been under judicial investigation since Reserve International Co-Investigating Judge Kasper-Ansermet informed me of this on 24 February 2012.² He informed me at that time of my fair trial rights and my right to access the Case File. I am aware that Reserve International Co-Investigating Judge Kasper-Ansermet issued a decision³ finding me "most responsible" for crimes within the jurisdiction of the ECCC. Consequently, I require Case File access and the ability to participate in the judicial investigation so that I can exercise all of my fair trial rights.

My Co-Lawyers have informed me that you, Co-Investigating Judge Harmon, have recently decided on your own and without Co-Investigating Judge You Bunleng, to defer, yet again, a decision on whether you will grant my Defence team access to the Case File. You stated that issuing a decision would not be "judicially efficient" since if I comply with the summons and am charged, you will grant me access to the Case File.⁴

You state that I am scheduled to attend an initial appearance before you on 8 December 2014 and that *if* I am charged upon completion of this initial appearance, you will permit me to exercise all the rights entitled to Charged Persons under the Internal Rules, including access to the Case File and participation in the judicial investigation.⁵ As my Co-Lawyers have repeatedly pointed out, this interpretation of the Civil Law system and the Internal Rules – which differs from Reserve International Co-Investigating Judge Kasper-Ansermet's interpretation (who unlike you, came to his position of Investigating Judge from a Civil Law background) – is inconsistent with the letter and spirit of the procedure adopted by the ECCC.⁶

It appears that it is your position that in order for me to be afforded accesses to the Case File so I can fully enjoy my right to a defence and my right to assist in my own defence, I must

¹ MEAS Muth's Request to Access the Case File and Participate in the Judicial Investigation, 29 August 2013, D82.


² Notification of Suspect's Rights [Rule 21(1)(D)], 24 February 2012, D30.

³ Decision on Personal Jurisdiction and Investigative Policy Regarding Suspect, 2 May 2012, D48.

⁴ Notification on Suspect's Requests to Access the Case File, Take Part in the Judicial Investigation, and to Strike ICP's Submissions, 28 November 2014, D82/5, para. 16.

⁵ *Id.*

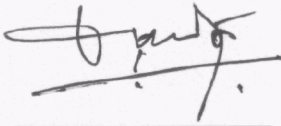
⁶ *See, e.g.*, MEAS Muth's Appeal Against the Constructive Denial of His Motion to Strike and Request to Access Case File and Participate in Judicial Investigation, 17 November 2014, D82/4/1; MEAS Muth's Request to Access the Case File and Participate in the Judicial Investigation, 29 August 2013, D82.



comply with your summons. This *quid pro quo* is offensive. Complying with an invalid summons cannot be made a precondition to exercising my fair trial rights. My Defence team must be permitted to access the Case File and to participate in the judicial investigation immediately. This is the sort of conduct expected from a Prosecutor from an adversarial legal system, not from a Judge – from whatever system.

In the past, I have on several occasions informed you that I do not wish to speak with you or anyone from the OCIJ.⁷ In other words, I intend to exercise my right to remain silent. Nothing has changed. I reiterate that I will not make a statement to you or anyone else associated with the OCIJ, including Judge You Bunleng.

I continue to insist that all communication the Co-Investigating Judges intend to have with me be made through my Co-Lawyers. I **WILL NOT** meet with any member of the Office of the Co-Investigating Judges without my lawyers' presence. Were I to be contacted by anyone from the Office of the Co-Investigating Judges, directly or indirectly, I insist that my Co-Lawyers be informed well in advance and that they be present.

A handwritten signature in black ink, appearing to read 'MEAS MUTH', written over a horizontal line.

Mr. MEAS Muth

Signed 2 December 2014

⁷ See, e.g., MEAS Muth's Notice That He Intends to Exercise His Right to Remain Silent and Any Contact With Him Must Be Made Through His Co-Lawyers, 11 November 2013; MEAS Muth's Notice of Intent to Exercise Right to Remain Silent and Waiver of any Potential Conflict of Interest, 13 June 2012, D56/4/1.2.