



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Request for Correction

Case : 003/07-09-2009-ECCC/OCIJ

To Document No(s):	ERN(s):	Request Date:	Correction Type:
A67/1/1	01043405-01043406	15/12/2014	<input checked="" type="checkbox"/> Change to Original <input type="checkbox"/> Change to Translation <input type="checkbox"/> Reclassification

Reason for changes:
Wrong reference to Case File Number

Details:
Change from 004 to 003

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ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
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Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត
OFFICE OF THE CO-INVESTIGATING JUDGES
BUREAU DES CO-JUGES D'INSTRUCTION

TO: **Mr. Michael Karnavas**
A: **Mr. Ang Udom**
Suspect's Co-Lawyers

Date: 4 December 2014

FROM: **International Co-Investigating Judge**
DE:

STRICTLY CONFIDENTIAL

SUBJECT: **RESPONSE TO THE NOTICE CONCERNING MR. MEAS MUTH'S DECISION NOT**
OBJET: **TO RECOGNIZE SUMMONS, DATED 3 DECEMBER 2014 ("LETTER")**

REF: **003/07-09-2009-ECCC-OCIJ**

1. I take notice of the Letter¹ and of the attached Notice of Non-Recognition of Summons.²
2. On 26 September 2014, I issued the *Order on Suspect's Request concerning Summons Signed by One of the Co-Investigating Judges* ("Order"), where I stated that such summonses are valid. In the order, I also referred to a decision of the Pre-Trial Chamber that unequivocally confirmed the validity of such summons to a suspect.³
3. I consider that the Order, and the Pre-Trial Chamber's jurisprudence relied therein, should have sufficiently assuaged any doubt on the validity of the Summons. However, on 27 October 2014 you lodged an appeal against the Order, requesting the Pre-Trial Chamber to find that a summons issued by one Co-Investigating Judge acting alone is invalid ("Appeal").⁴ Resolution of the Appeal was still pending on 2 December 2014, when the Suspect signed the Notice of Non-Recognition of

¹ Case File No. 003-A67/1, *Response to the Notice concerning Mr. Meas Muth's decision not to recognize summons, dated 3 December 2014*, dated 3 December 2014.

² Case File No. 003-A67/1.1, *Notice of Non-Recognition of Summons*, dated 2 December 2014.

³ Case File 0034-D117/1, *Order on Suspect's Request concerning Summons Signed by One of the Co-Investigating Judges*, 26 September 2014.

⁴ Case File 0034-D117/1/1/1, *Meas Muth's Appeal against the International Co-Investigating Judge's Order on Suspect's Request concerning Summons Signed by One Co-Investigating Judge, 27 October 2014.*, p. 14.

Summons. This may have caused the Suspect to be uncertain as to status of the summons for initial appearance notified to him on 28 November 2014 (“Summons”).⁵

- 4. On 3 December 2014 the Pre-Trial Chamber dismissed the Appeal as inadmissible (“Appeal Decision”).⁶ It did so after recalling that it had already affirmed the validity of a summons for initial appearance signed by one Co-Investigating Judge, provided that the disagreement procedure set forth in Internal Rule 72 has been complied with and that the 30 day time period to bring it before the Pre-Trial Chamber has elapsed.⁷
- 5. Following the issuance of the Appeal Decision, any uncertainty that you and the Suspect may have had on the validity of the Summons has been definitively resolved. I therefore expect the Suspect to attend his initial appearance scheduled for 8 December 2014. Failure to do so will constitute a direct violation of a legally binding order. In that case, I will consider further measures available under the law applicable at the ECCC to ensure his attendance.
- 6. Finally, I take note of your intention not to comply with the summons notified to you on 28 November 2014 (“Lawyers’ Summons”).⁸ Irrespective of whether the Suspect will voluntarily appear, I hereby remind you that you are both under an obligation to comply with the Lawyers’ Summons and expected to appear before me at 1:00 p.m. on 8 December 2014. However, considering that no interview will be conducted during the hearing and having taken note of the Suspect’s decision to exercise his right to remain silent, I consider that for the purpose of the initial appearance the presence of only one of the Co-Lawyers will suffice.
- 7. Should either one of you wish to be exempted from appearing on 8 December 2014, you are hereby instructed to file a notice in writing. The notice shall be signed by both Co-Lawyers and shall indicate which of the Co-Lawyers will attend the initial appearance. The notice shall be filed by 3 p.m. on Friday 5 December 2014.

Dated 4 December 2014, Phnom Penh

Judge Mark B. Harmon

សហចៅក្រមស៊ើបអង្កេតអន្តរជាតិ

International Co-Investigating Judge

Co-juge d’instruction international

⁵ Case File 0034-A66, *Summons of Meas Muth for Initial Appearance*, 26 November 2014 (served on the Suspect on 28 November 2014).

⁶ Case File No. 003-D117/1/1/2, *Decision on Meas Muth’s appeal against the International Co-Investigating Judge’s Order on Suspect’s Request concerning Summons Signed by One Co-Investigating Judge*, 3 December 2014, p. 8.

⁷ *Ibid.*, para. 16.

⁸ Case File No. 003-A67, *Summons of Meas Mut Co-Lawyers for Initial Appearance of Meas Mut*, 28 November 2014.