



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

Before: The Co-Investigating Judges

Date: 19 December 2013

Language(s): English

Classification: STRICTLY CONFIDENTIAL Declassified to Public

**ORDER ON MEAS MUTH'S REQUEST FOR LEAVE TO REPLY ON JURISDICTION**

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<b>ឯកសារដើម</b>	
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ឈ្មោះ/នាម (Name):	
<i>Isaac Endeley</i>	
Case File No: / Agent chargé:	



**Noting** the *Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia*, dated 27 October 2004;

**Noting** the *International Co-Prosecutor's Second Introductory Submission*, dated 20 November 2008, initiating Case File No.003,<sup>1</sup> which was placed on the Case File on 7 September 2009;<sup>2</sup>

**Noting** the judicial investigation relating to alleged violations of the **1956 Penal Code, Crimes against Humanity and Grave Breaches of the Geneva Conventions of 12 August 1949**, offences defined and punishable under Articles 3, 5, 6, 29 and 39 of the ECCC Law and Articles 500, 501, 503, 505, 506, 507 and 508 of the 1956 Penal Code;

**Noting** Rules 39 and 72 of the *ECCC Internal Rules*;

**Noting** Article 8 of the *Practice Direction on Filing of Documents before the ECCC*;

**Noting** that on 7 February 2013, Judges You Bunleng and Harmon (“International CIJ”) signed a Written Record of Disagreement concerning *inter alia* this Order;

**Considering** that the International CIJ is seised of the *International Co-Prosecutor's Request that Appointment of Co-Lawyers-Designate be Rejected on the Basis of Irreconcilable Conflicts of Interest (“Request for Rejection”)*,<sup>3</sup> whereby the International Co-Prosecutor requested the Co-Investigating Judges to reject the appointment of Michael Karnavas and Ang Udom (“Co-Lawyers-Designate”) as counsel for Meas Muth on the basis of the existence of an irreconcilable conflict of interest;

**Noting** *Meas Muth's Expedited Request for OCIJ to Reconsider Whether It Has Jurisdiction to Determine Alleged Conflicts of Interest (“Expedited Request”)*, filed on 26 November 2013 by the Co-Lawyers-Designate to challenge the International CIJ's jurisdiction to rule on the *Request for Rejection*;<sup>4</sup>

**Considering** that the International CIJ admitted the *Expedited Request* as a supplementary submission on the alleged existence of a conflict of interest in Case 003 and invited the International Co-Prosecutor to submit a response within five working days of the date of filing of the order;<sup>5</sup>

<sup>1</sup> Case File No. 003-D1, *Co-Prosecutor's Second Introductory Submission Regarding the Revolutionary Army of Kampuchea*, 20 November 2008.

<sup>2</sup> Case File No. 003-D1/1, *Acting International Co-Prosecutor's Notice of Filing of the Second Introductory Submission*, 7 September 2009.

<sup>3</sup> Case File No. 003-D56/1, *International Co-Prosecutor's Request that Appointment of Co-Lawyers-Designate be Rejected on the Basis of Irreconcilable Conflicts of Interest*, 24 December 2012.

<sup>4</sup> Case File 003-D56/17, *Meas Muth's Expedited Request for OCIJ to Reconsider Whether It Has Jurisdiction to Determine Alleged Conflicts of Interest*, dated 26 November 2013.

<sup>5</sup> Case 003-D56/16, *Order on Meas Muth's Expedited Request on OCIJ Jurisdiction to Determine Conflicts of Interest*, 29 November 2013 (“*Order on Expedited Request*”).



**Noting** the *Reply Concerning Meas Muth's Expedited Request for the OCIJ to Reconsider Whether It Has Jurisdiction to Determine Alleged Conflicts of Interest* ("ICP Reply"), filed by the International Co-Prosecutor on 6 December 2013;<sup>6</sup>

**Noting** *Meas Muth's Request for Leave to Reply to International Co-Prosecutor's Reply Concerning Meas Muth's Expedited Request for the OCIJ to Reconsider Whether It Has Jurisdiction to Determine alleged Conflicts of Interest* ("Request for Leave to Reply"), whereby the Co-Lawyers-Designate requested leave to reply to the ICP Reply;<sup>7</sup>

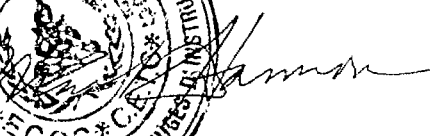
**Considering** Article 8.4 of *Practice Direction on filing of Documents before the ECCC*;<sup>8</sup>

**Further considering** that it is in the interest of justice to grant the Co-Lawyers-Designate leave to reply to the ICP Reply;

**FOR THE FOREGOING REASONS, I, MARK B. HARMON, HEREBY:**

1. **Accept** the filing of the *Request for Leave to Reply* in English pending its translation into Khmer;
2. **Admit** the *Request for Leave to Reply* as a supplementary submission on the alleged existence of a conflict of interest in Case 003;
3. **Grant** leave for the Co-Lawyers-Designate to reply to the ICP Reply within five (5) working days of the placement on the Case File of the present Order.

Dated 19 December 2013, Phnom Penh



Judge Mark B. Harmon

សហចៅក្រមស៊ើបអង្កេតអន្តរជាតិ

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

<sup>6</sup> Case 003-D56/16/2, *International Co-Prosecutor's Reply Concerning Meas Muth's Expedited Request for the OCIJ to Reconsider Whether It Has Jurisdiction to Determine Alleged Conflicts of Interest*, 6 December 2013. The International CIJ notes that, while entitled "Reply", this filing was a response to the *Expedited Request*.

<sup>7</sup> *Meas Muth's Request for Leave to Reply to International Co-Prosecutor's Reply Concerning Meas Muth's Expedited Request for the OCIJ to Reconsider Whether It Has Jurisdiction to Determine alleged Conflicts of Interest*, 18 December 2013.

<sup>8</sup> *Practice Direction on Filing of Documents before the ECCC*, UN Doc ECCC/01/2007/Rev.8: "A reply to a response shall only be permitted where there is to be no oral argument on the request, and such reply shall be filed within 5 calendar days of notification of the response to which the participant is replying".