

**ក្រុមមេធាវីការពារក្តី ម៉ាស មុត**  
**MEAS MUTH DEFENCE TEAM**  
**EQUIPE DE DEFENSE DE MEAS MUTH**

ANG Udom and Michael G. KARNAVAS

Co-Lawyers for Mr. MEAS Muth

13 November 2013



To: **Isaac ENDELEY**  
Head of DSS

Cc: **Eric HUSKETH**  
Legal Officer, DSS

**Judge YOU Bunleng**  
**Judge Mark HARMON**  
 Office of the Co-Investigating Judges

Re: Request to provide Mr. MEAS Muth with attached Notice and Waiver

Dear Mr. Endeley,

Thank you for your letter and for meeting with Co-Investigating Judge Harmon. In fact, we were just in the process of writing a second letter to you when we received your response. We were writing to request that you provide this additional notice and waiver to Mr. MEAS Muth.

While it is reassuring that Co-Investigating Judge Harmon has received *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* and is aware of Mr. MEAS Muth's position on the issues, we consider that it would be in Mr. MEAS Muth's interest for you to re-advise him of his right to be assisted by counsel, and, again, to afford him the opportunity to review and sign the attached Notice and Waiver. This is well within the remit of DSS as an independent and autonomous body on substantive defence matters.<sup>1</sup> The Notices and Waiver merely express Mr. MEAS Muth's unequivocal position known to International Co-Investigating Judge Harmon, the OCP and DSS.<sup>2</sup>

<sup>1</sup> See Internal Rule 11(1): "The Office of Administration shall establish a Defence Support Section, which shall only be autonomous with regard to the substantive defence matters set out in this Rule."

<sup>2</sup> On 13 June 2013, Mr. MEAS Muth provided a Notice and Waiver stating, *inter alia*: "I fully intend to exercise my right to remain silent. I have no intentions of answering any questions as a witness in Case 002, as a suspect in Case 003, or as a witness in Case 004.... I informed Ms. Valabhji that I select Mr. Ang Udom to be my legal representative. I have been advised that I am entitled to an International Co-Lawyer, I select Mr. Michael G. KARNAVAS. With full knowledge that there is a current investigation against me and in full knowledge of my right to legal representation, I voluntarily, knowingly and unequivocally waive any conflict of interest that might exist as a result of Mr. Ang Udom and Mr. Michael G. KARNAVAS's representation of Mr. IENG Sary in Case 002, and further reaffirm my desire to be represented by Mr. Ang Udom and Mr. Michael G. KARNAVAS."



Lest there be any misgivings, we take this opportunity to recall Co-Investigating Judge Harmon's findings in Case 004, which, assuredly, apply to Case 003:

- “The freedom of choice of a lawyer is a fundamental right that may only be restricted under certain clearly defined circumstances ... and following clearly defined processes.”
- “[N]o role is envisaged for the CIJs beyond formal recognition of lawyers once all of the requirements have been satisfied.”
- “Neither French Laws nor the Cambodian Law on the Bar and Code of Ethics for Lawyers appear to provide for a right of judicial authorities to determine whether the freedom of choice of a Suspect regarding his lawyer should be restricted or not.”
- “Under the Internal Rules, the role of determining whether freedom of choice of a lawyer must be restricted is shared between the BAKC and the ECCC's internal body, the DSS.”
- “Administrative Regulation 9 provides for issues of conflict of interest to be determined by DSS.”<sup>3</sup>

To avoid any insinuations that the Co-Lawyers are attempting to circumvent Co-Investigating Judge Harmon's order, we have copied the Co-Investigating Judges. We are also attaching our letter from yesterday, which in hindsight, should have been copied to the Co-Investigating Judges. We thank you for informing Co-Investigating Judge Harmon of our letter. Thank you also for your reassurance to us that you will continue to monitor the situation closely and discuss with us the various courses of action that may become necessary as the situation evolves.

Thank you for your prompt consideration. We find this to be an important matter meriting DSS's assistance.

Sincerely yours,





**ANG Udom**

**Michael G. KARNAVAS**

Co-Lawyers for Mr. MEAS Muth

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<sup>3</sup> 004/07-09-2009-ECCC-OCIJ, Decision on Motion and Supplemental Brief on Suspect's Right to Counsel, 17 May 2013, D122/6, paras. 76-78.