



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

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Before: **The Co-Investigating Judges**
 Date: **05 February 2016**
 Language(s): **English/Khmer [Original in English]**
 Classification: **CONFIDENTIAL**

ORDER FOR SEVERANCE OF IM CHAEM FROM CASE 004

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I. PROCEDURAL HISTORY

1. On 18 December 2015, the CIJs publicly notified the parties and their lawyers of the conclusion of the judicial investigation against Im Chaem and provided them until 8 January 2016 to request further investigative action (“Notice of Conclusion”).¹ On the same date, the CIJs confidentially informed the parties that they were inclined to dismiss the charges against Im Chaem for lack of personal jurisdictions and to sever the proceedings against her. The CIJs requested the parties to file, by 11 January 2016, any submission they may have on the severance of the proceedings against Im Chaem (“Notice of Intent”).²
2. On 30 December 2015, the Co-Prosecutors, noting a discrepancy in the English and Khmer versions of the Notice of Intent, requested clarification in relation to the submissions sought by the CIJs.³ On 8 January 2016 the CIJs provided the requested clarification and extended the deadline for submissions set in the Notice of Intent to 18 January 2016.⁴
3. On 8 January 2016, the Defence made submissions in support of the severance of Im Chaem from Case 004.⁵ On 15 January 2016, the Co-Prosecutors informed the CIJs that they did not object to the severance.⁶

II. DISCUSSION

4. Article 14(3)(c) of the 1966 International Covenant on Civil and Political Rights states that in the determination of any criminal charge against him or her, everyone shall be entitled to be tried without undue delay. Internal Rule 21(4) mandates that proceedings before the ECCC be brought to a conclusion within a reasonable time. Considering that the investigation on the allegations against Im Chaem has been concluded, while the investigation against other charged persons in Case 004 continues, we consider it appropriate and in the interest of all parties to sever Im Chaem from Case 004.
5. This will allow bringing the proceedings against Im Chaem to a conclusion while continuing the investigations in the remainder of Case 004.⁷
6. We also note that after the issuance of the Notice of Conclusion, we have reclassified as confidential a number of documents that were classified as strictly confidential and hence not accessible to all parties. We therefore grant additional

¹ Case File No. 004-D285, *Notice of Conclusion of Judicial Investigation against Im Chaem*, 21 December 2015.

² Case File No. 004-D286, *Notice of Intent to Dismiss the Charges against Im Chaem and to Sever the Proceedings against Her*, 18 December 2015.

³ Case File No. 004-D286/1, *Co-Prosecutors’ Request for Clarification on Submissions Sought by the Co-Investigating Judges in Their Notice of Intent Dated 18 December 2015*, 30 December 2015.

⁴ Case File No. 004-D286/1/1, *Response to Co-Prosecutors’ Request for Clarification on Submissions Sought by the Co-Investigating Judges in Their Notice of Intent Dated 18 December 2015*, 8 January 2016.

⁵ Case File No. 004-D286/2, *Im Chaem’s Submission on the Co-Investigating Judges’ Notice of Intent to Dismiss the Charges against Im Chaem and to Sever the Proceedings against Her*, 8 January 2016.

⁶ Case File No. 004-D286/3, *Co-Prosecutors’ Submission on the Severance of the Proceedings against Im Chaem*, 15 January 2016. See also Case File 004-D286/3/2, *Co-Prosecutors’ Reply to Defence Response on the Severance of the Proceedings Against Im Chaem*, 22 January 2016.

⁷ The CIJs have registered disagreements in relation to the conduct of the investigations in Case 004.



15 days to the parties from the issuance of this severance order to make any further request for investigative action they may have.

FOR THE FOREGOING REASONS, WE:⁸

- 7. **ORDER** the severance of Im Chaem from Case 004;
- 8. **INSTRUCT** the Greffier to make the necessary arrangements for the creation of a new Case File, numbered 004/1, which will be accessible to all Parties who currently have access to Case File 004; and
- 9. **INFORM** the Im Chaem Defence, the Co-Prosecutors, and the Civil Party Applicants that, should they wish to file requests for investigative action in Case 004/1, they may do so within fifteen days from the issuance of this Order; and
- 10. **INFORM** the Yim Tith Defence and Ao An Defence that they have been granted access to Case File 004/1 because future filings and decisions issued in that case may be relevant to the representation of their clients in Case 004; however, access to Case File 004/1 does not automatically imply their standing to file motions or requests in that case.

Dated 05 February 2016, Phnom Penh

សហចៅក្រមស៊ើបអង្កេត

Co-Investigating Judges

Co-Investigating Judge d' instruction



YOU Bunheng * C. Michael BOHLANDER

⁸ While the Co-Investigating Judges are issuing this order jointly, the National Co-Investigating Judge notes, for the record, that documents placed on Case File 004 should be numbered sequentially from the last documents placed before the resignation of Judge Siegfried Blunk, without including in the count orders and decisions issued by Reserve Judge Laurent Kasper-Ansermet.