



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

Before: **The Co-Investigating Judges**
Date: **11 October 2016**
Language(s): **English & Khmer [Original in English]**
Classification: **CONFIDENTIAL**

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception): 11 / 10 / 2016
ពេលវេលា (Time/Heure) : 15.15
ឈ្មោះបុគ្គលិកបម្រើការងារ (Case File Officer/L'agent chargé) <i>SANN PANA</i>

**DECISION ON THE URGENT REQUEST CONCERNING
ACCESS TO CASE FILE 004**

Distribution:

Co-Prosecutors
CHEA Leang
Nicholas KOUMJIAN

Ao An Defence
MOM Luch
Richard ROGERS
Göran SLUITER

Yim Tith Defence
SO Mosseny
Suzana TOMANOVIĆ

Defence Support Section
Isaac ENDELEY

Civil Party Lawyers
CHET Vanly
HONG Kimsuon
KIM Mengkhy
LOR Chunthy
SAM Sokong
SIN Soworn
TY Srinna
VEN Pov
Linda BEHNKE
Laure DESFORGES
Herve DIAKIESE

Ferdinand DJAMMEN-
NZEPA
Nicole DUMAS
Isabelle DURAND
Françoise GAUTRY
Emmanuel JACOMY
Martine JACQUIN
Christine MARTINEAU
Barnabe NEKUI
Lyma NGUYEN
Beini YE

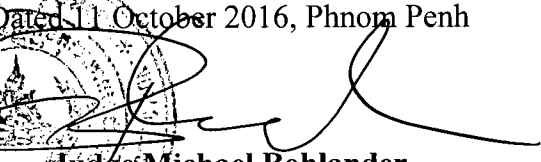


1. Disagreements between the Co-Investigating Judges (“CIJs”) in this case were registered on 22 February 2013, 5 April 2013, and 22 January 2015.
2. By their motion dated 15 September 2016, the Ao An Defence (“Defence”) request the CIJs to grant Benjamin Joyes, upon the termination of his contract as a paid Senior Legal Consultant on 16 September 2016, access to Case File 004 as a *pro bono* legal consultant and to request the Defence Support Section (“DSS”) to take the necessary measures to enable access to the Court’s systems (“Request”).¹
3. On 15 September 2016, I emailed the Chief of DSS, Isaac Endeley, requesting DSS to facilitate the requested access after the requisite confidentiality form was signed by Mr Joyes.
4. On 16 September 2016, Mr Endeley informed me that DSS had formally requested the extension of Mr Joyes’ access to Case File 004 and Zylab, and that the Greffier of the Office of the Co-Investigating Judges had sent Mr Joyes the requisite paperwork to effect the access.²
5. On 23 September 2016, the Defence emailed my office to confirm that Mr Joyes had remote access to the Case File and to Zylab.³ The relief sought by the Defence in the Request has therefore been provided.
6. Going forward, I note to the Case 004 Defence teams and DSS that, consistent with my previous decision concerning the Yim Tith Defence,⁴ I consider it appropriate that any *pro bono* consultants working for the Defence teams be provided with access to the Case File through Zylab to the same extent it is granted to the other Defence legal consultants and for as long as it is requested by the Co-Lawyers. To that end, I expect any future access requests to be resolved between the Defence teams and DSS without the need to seek authorisation from the CIJs.

FOR THE FOREGOING REASONS, I:

7. **NOTE** that the Request is resolved as the relief sought by the Defence in the Request has now been provided.

Dated 11 October 2016, Phnom Penh



Judge Michael Bohlander
សមាជិកក្រុមស៊ើបអង្កេតអន្តរជាតិ
 International Co-Investigating Judge
 Co-juge d’instruction international

¹ Case File No. 004-D323, *Urgent Request Concerning Access to Case File*, 15 September 2016.

² Annex A: Email from Isaac Endeley to Michael Bohlander re: *Urgent Request Concerning Access to Case File 004 – Courtesy Copy*, 16 September 2016.

³ Annex B: Email from Tibor Bajnovič to Nivedha Thiru re: *Urgent request concerning access to Case File 004*, 23 September 2016.

⁴ Case File No. 004-D312/4, *Second Decision on Yim Tith’s Urgent Request Concerning Defence’s Resources*, 14 June 2016, para. 8.