



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des tribunaux cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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**
The Applicants

Date: 19 September 2013

FROM: **Co-Investigating Judges**
DE:

Declassified to Public
CONFIDENTIAL

ឯកសារដើម	
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL	
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de réception):	
19 / 09 / 2013	
ម៉ោង (Time/Heure):	
16 : 50	
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier:	
[Signature]	

SUBJECT: **RESPONSE TO MEAS MUTH'S REQUEST TO ACCESS THE CASE**
OBJET: **FILE AND TAKE PART IN IN THE JUDICIAL INVESTIGATION**

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

1. The International Co-Investigating Judge ("International CIJ") hereby notifies the Applicants that he will defer a decision on the *Meas Muth's Request to Access the Case File and to Take Part in the Judicial Investigation* ("Request"), filed on 29 August 2013,¹ and decide on the Request once the issue of a conflict of interest in the Applicants' representation of Meas Muth, raised by the Co-Prosecutor,² has been resolved.
2. Pursuant to Article 12 of the Agreement between the United Nations and the Royal Government of Cambodia, the International CIJ has an obligation to safeguard the integrity of the investigation and to ensure the application of international standards of justice, fairness, and due process of law. Pursuant to Internal Rule 21, the International CIJ must interpret the applicable regulations so as to always safeguard the interest of suspects. The possible existence of conflicts of interest is widely recognized by international standards and practice as an impediment to legal representation,³

¹ Case No. 003-D82, *Meas Muth's Request to Access the Case File and to Take Part in the Judicial Investigation*, 29 August 2013.

² Case No. 003-D56/1, *International Co-Prosecutor Request that the Appointment of Co-Lawyers Designate be Rejected on the Basis of Irreconcilable Conflict of Interest*, 24 December 2012; Case File No. 003-D56/7, *International Co-Prosecutor's Supplementary Submissions on Conflict of Interest of Co-Lawyers-Designate*, 3 April 2013.

³ See Article 14(c) of the Code of Conduct of Lawyers Practicing before the International Criminal Tribunal for the former Yugoslavia; Articles 12 and 16 of the Code of Professional Conduct for Counsel practicing before the International Criminal Court; Article 11 of the Code of Professional Conduct for Defence Counsel and Legal Representatives of Victims appearing before the Special Tribunal for Lebanon; Article 9 of the Code of Professional Conduct for Defence Counsel practicing before the International Criminal Tribunal for Rwanda; Article 15 of the Code of Professional Conduct for

including to a suspect's choice of counsel of his own choosing. The safeguard of the interests of justice require preventing conflicts of interest before they arise.⁴

- 3. Because of the potential repercussions that the alleged conflict could have on the proceedings, the International CIJ will defer a decision on the Request to after the resolution of this issue, which will be decided after the Defence Support Section has reached a final decision on Meas Muth's indigent status for the purposes of Internal Rule 11 and Internal Rule 22.⁵
- 4. This decision does not imply the International CIJ's agreement with the position of the Co-Prosecutor on the issue of the alleged conflict of interest.



Done at Phnom Penh, Cambodia, 10 September 2013, Phnom Penh

Mark B. Harmon

អ្នកប្រឹក្សាស៊ើបអង្កេតអន្តរជាតិ

International Co-Investigating Judge

Co-juge d'instruction international

Counsel with Right of Audience before the Special Court for Sierra Leone; Rules 1.7 to 1.10 of the Model Rules for Professional Conduct of the American Bar Association.

⁴ *Prosecutor v. Ante Gotovina et al.*, Case No. It-06-90-AR73.2, *Decision on Ivan Čermak's Interlocutory Appeal against Trial Chamber's Decision on Conflict of Interest of Attorneys Čedo Prodanović and Jadranka Sloković*, 29 June 2007, paras 16, 55; *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR73.1, *Decision on Appeal by Bruno Stojić against Trial Chamber's Decision on Request for Appointment of Counsel*, 24 November 2004, paras 19, 20, 22.

⁵ See Case No. 003-D56/11/7, *Decision on Appeal against the Determination by DSS on the Question of Meas Muth's Indigence*, para. 107.