



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
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Case File No: 003/07-09-2009-ECCC-OCIJ

Before: The Co-Investigating Judges

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DECISION TO REDUCE THE SCOPE OF JUDICIAL INVESTIGATION PURSUANT TO INTERNAL RULE 66 bis

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I. PROCEDURAL HISTORY

1. Disagreements between the Co-Investigating Judges in this case were registered on 7 and 22 February 2013 and 17 July 2014.
2. On 16 March 2016, in my *Request for Comments Regarding Alleged Facts Not To Be Investigated Further* ("Request for Comments"), I informed the parties of my intention not to further investigate certain facts.¹
3. On 18 March 2016, Meas Muth filed his comments² and, on 29 April 2016, the International Co-Prosecutor ("ICP") filed his comments.³
4. On 24 August 2016, in my *Notice of Provisional Discontinuance Regarding Individual Allegations*⁴ ("Notice of Provisional Discontinuance"), I informed the parties that I would not further investigate the following facts alleged in the ICP's Second Introductory Submissions⁵ and Supplementary submission,⁶ which *prima facie* appear to be subject to Internal Rule 66 *bis*:
 - **Fact 1** - All allegations relating to S-22 security centre.⁷
 - **Fact 2** - All allegations relating to Kampong Chhnang Airport Construction Site.⁸
 - **Fact 6** - All allegations relating to Stung Tauch execution site.⁹
 - **Fact 7** - All allegations relating to RAK involvement in the "purges" of the Central Zone, the New North Zone and the East Zone, excluding the alleged "purges" of members of the RAK units located in those areas.¹⁰
5. On 22 November 2016, I notified the parties of my intention to exclude Facts 1, 2, 6, and 7 from the investigation pursuant to Internal Rule 66 *bis* ("Notification Pursuant to Rule 66 *bis*") at the time of the conclusion of the investigation.¹¹
6. On 24 November 2016, the ICP filed a submission indicating that he does not object to the exclusion of Facts 1, 2, 6, and 7 and agreeing that the remaining facts are representative of the scope of the Introductory and Supplementary Submissions geographically, temporally, and substantively.¹² The Defence did not file any response.

¹ Case File No. 003-D184, *Request for Comments regarding Alleged Facts Not to Be Investigated Further*, 16 March 2016 ("Request for Comments").

² Case File No. 003-D184/1, *Meas Muth's Letter in Response to Request for Comments Regarding Alleged Facts not to be Investigated Further*, 16 March 2016, p. 3 ("Defence Letter").

³ Case File No. 003-D184/2, *International Co-Prosecutor's Response to the International Co-Investigating Judge's Request for Comments regarding Alleged Facts Not to Be Investigated Further*, 29 April 2016 ("Response"), paras 3, 15-21.

⁴ Case File No. 003-D184/3, *Notice of Provisional Discontinuance Regarding Individual Allegations*, 24 August 2016. It should be noted that sets of allegations are being referred to as one fact.

⁵ Case File No. 003-D1, *Co-Prosecutors' Second Introductory Submission Regarding the Revolutionary Army of Kampuchea*, 20 November 2008 ("IS").

⁶ Case File No. 003-D120, *International Co-Prosecutor's Supplementary Submission Regarding Crime Sites Related to Case 003*, 31 October 2014.

⁷ IS, para. 46.

⁸ IS, para. 47.

⁹ IS, para. 66.

¹⁰ IS, para. 66.

¹¹ Case File No. 003-D184/4, *Notification Pursuant to Rule 66 bis (2)*, 22 November 2016.

¹² Case File No. 003-D184/4/1, *International Co-Prosecutor's Response to the International Co-Investigating Judge's Notification Pursuant to Internal Rule 66 bis (2)*, 24 November 2016.



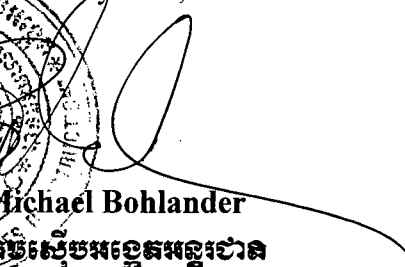
II. DISCUSSION

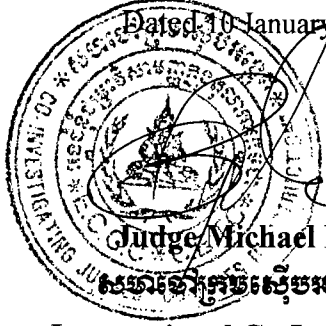
- 7. Rule 66 *bis* (1) provides that the CIJs may, at the time of notification of conclusion of investigation, decide to reduce the scope of judicial investigation by excluding certain facts set out in an Introductory Submission or any Supplementary Submission(s).
- 8. Today, I notified the parties pursuant to Internal Rule 66(1) that the judicial investigation against Meas Muth is concluded. The investigation is thus ripe for a decision on Internal Rule 66 *bis*.
- 9. I have decided to exclude Facts 1, 2, 6, and 7 from the investigation pursuant to Internal Rule 66 *bis* for the reasons stated in the Notice of Provisional Discontinuance and the Notification Pursuant to Rule 66 *bis*.
- 10. I am of the opinion that the remaining facts are representative of the scope of the Submissions geographically, temporally and substantively, in terms of the nature and scale of crimes and the categories of victims.
- 11. As I have stated previously, Internal Rule 66 *bis* (5) makes clear that the evidence relating to excluded facts may still be relied upon insofar as it is relevant to the remaining facts.
- 12. Exclusion of Facts 1, 2, 6, and 7 will not affect the status of Civil Parties or the right of Civil Party applicants to participate in the judicial investigation.

FOR THE FOREGOING REASONS, I:

- 13. **DECIDE** to exclude Facts 1, 2, 6, and 7 from the investigation pursuant to Internal Rule 66 *bis*.

Dated 10 January 2017, Phnom Penh




Judge Michael Bohlander
 សម្តេចក្រុមស៊ើបអង្កេតអន្តរជាតិ
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