



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

<b>ឯកសារដើម</b>	
ORIGINAL DOCUMENT / DOCUMENT ORIGINAL	
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt / Date de réception): ..... 29 / 08 / 2016 .....	
ម៉ោង (Time / Heures): ..... 16 : 00 .....	
មន្ត្រីទទួលបន្ទុកឯកសារ (Case File Officer / L'agent chargé du dossier): ..... SANN RADA .....	

Before: The Co-Investigating Judges

Date: 29 August 2016

Language(s): English & Khmer [Original in English]

Classification: CONFIDENTIAL

**DECISION ON INTERNATIONAL CO-PROSECUTOR'S  
REQUEST FOR INVESTIGATIVE ACTION TO PLACE SEXUAL  
OR GENDER-BASED VIOLENCE AND FORCED MARRIAGE  
DOCUMENTS ON 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

**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



## I. PROCEDURAL HISTORY

1. Disagreements between the Co-Investigating Judges (“CIJs”) in this case were registered on 22 February 2013, 5 April 2013, 22 January 2015, and 21 October 2015.
2. On 24 April 2014, the International Co-Prosecutor (“ICP”) filed a supplementary submission, requesting an investigation into allegations of forced marriage and sexual or gender-based violence in Case 004 (“Supplementary Submission”).<sup>1</sup>
3. On 14 March 2016, I charged Ao An with, *inter alia*, the crime against humanity of other inhuman acts; specifically, forced marriage and sexual violence in Kampong Siem and Prey Chhor Districts.<sup>2</sup>
4. On 9 December 2015, I charged Yim Tith with, *inter alia*, the crime against humanity of other inhumane acts; specifically forced marriage in Samlaut District in Sector 1 and Kampong Prieng and Reang Kerei Communes in Sector 4 of the Northwest Zone.<sup>3</sup>
5. On 9 May 2016, the ICP filed a request for investigative action to place sexual or gender-based violence and forced marriage documents in Case 004 (“Request”).<sup>4</sup>

## II. SUBMISSIONS

6. The ICP requests that the CIJs place on Case File 004 10 documents and three videos from Case File 002 and one video available on YouTube (“Requested Materials”), which he submits are relevant to the allegations of sexual and gender-based violence and forced marriage.<sup>5</sup>
7. The ICP lists the Requested Materials and outlines their specific relevance in Annex A to the Request.<sup>6</sup>
8. While the ICP acknowledges there is some overlap with material already on Case File 004, the ICP submits the Requested Materials provide a clearer picture of the number of similar occurrences across the country, which is relevant to establishing a pattern and evidence of the physical and psychological impact of the crimes.<sup>7</sup>

<sup>1</sup> Case File No. 004-D191, *Co-Prosecutors’ Supplementary Submission Regarding Forced Marriage and Sexual or Gender-based Violence*, 24 April 2014.

<sup>2</sup> Case File No. 004-D303, *Written Record of Further Appearance*, 14 March 2016, p. 8.

<sup>3</sup> Case File No. 004-D281, *Written Record of Initial Appearance*, 9 December 2015, pp. 9, 11.

<sup>4</sup> Case File No. 004-D310, *International Co-Prosecutor’s Request for Investigative Action to Place Sexual or Gender-Based Violence and Forced Marriage Documents on Case File 004*, 9 May 2016.

<sup>5</sup> Request, paras 1, 10, 11-13.

<sup>6</sup> Case File No. 004-D310.2, *Annex A*, 9 May 2016.

<sup>7</sup> Request, para. 12.



### III. DISCUSSION

#### A. Precision of the investigative action requested

9. The Request identifies the requested investigative action with sufficient precision; specifically, the Request identifies and describes each document and video to be placed onto Case File 004 in its annex.<sup>8</sup>

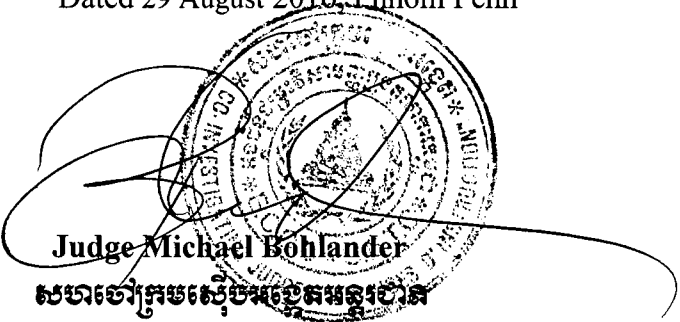
#### B. *Prima facie* relevance of documents and videos listed in Annex A

10. The Request provides sufficient reasons as to why the Requested Materials are relevant to Ao An and Yim Tith investigations into sexual or gender-based violence and forced marriage and conducive to ascertaining the truth.<sup>9</sup>
11. The placement of the Requested Materials on the Case File will not delay the investigation, nor will it impinge upon the rights of charged persons in Case 004.

#### FOR THE FOREGOING REASONS, I:

12. **GRANT** the Request; and
13. **INSTRUCT** the OCIJ Greffier to place the documents and videos listed in Annex A to this decision on Case File 004.

Dated 29 August 2016, Phnom Penh



**Judge Michael Bohlander**  
 សហចៅក្រមស៊េចដេតអន្តរជាតិ

**International Co-Investigating Judge  
 Co-juge d'instruction international**

<sup>8</sup> Request, Annex A, *Documents and Videos relating to Sexual or Gender-Based Violence and Forced Marriage Requested for Placement on Case File 004*.

<sup>9</sup> Request, paras 11 to 13.