



**ព្រះរាជាណាចក្រកម្ពុជា**  
**ជាតិ សាសនា ព្រះមហាក្សត្រ**  
**Kingdom of Cambodia**  
**Nation Religion King**

**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

**Royaume du Cambodge**  
**Nation Religion Roi**

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

**ការិយាល័យសហចៅក្រមស៊ើបអង្កេត**  
**Office of the Co-Investigating Judges**  
**Bureau des co-juges d'instruction**

**Case File No: 004/2/07-09-2009-ECCC-OCIJ**

Before: **The Co-Investigating Judges**  
Date: **23 August 2018**  
Language(s): **English [Original]**  
Classification: **CONFIDENTIAL**

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**ORDER TO REDACT INTERNATIONAL CO-INVESTIGATING JUDGE'S CLOSING ORDER OF 16 AUGUST 2018**

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## I. PROCEDURAL HISTORY

1. On 23 August 2018, the Defence for Ao An (“Defence”), filed its *Urgent Request for Redaction and Interim Measures* (“Request”) before the Pre-Trial Chamber (“PTC”).<sup>1</sup> It argued that the Co-Investigating Judges (“CIJs”) were *functus officio* regarding Case 004/2 and that therefore the only jurisdiction to deal with its requests lay with the PTC.<sup>2</sup>
2. The Defence requested the removal of Ao An’s current address from the International Co-Investigating Judge’s (“ICIJ”) Closing Order,<sup>3</sup> citing the potential for media harassment or worse.<sup>4</sup>
3. The Defence also pointed out that the ICIJ published the names of certain civil party applicants who had requested protective measures in Case 004/1.<sup>5</sup>

## II. DISCUSSION

4. The PTC is not seised of any appeal yet, hence it has no jurisdiction to entertain this Request. The fact that the CIJs are *functus officio* regarding the investigation in Case 004/2 does not mean that they are prevented from correcting simple clerical errors or making necessary corrections of other obvious textual errors.
5. The Defence is correct in pointing out the violation of the protective measures. Having reviewed the Case 004/2 Closing Order, I note that two witnesses in respect of whom protective measures were granted in Case 004/1 are referred to by their names. This was due to a regrettable oversight during the drafting process in Case 004/2.
6. Due to the urgency of the situation, I take note of the matter *proprio motu* and will order the immediate redaction of the witnesses’ last names from footnotes 479, 534 and 537 and from Annex III, and the immediate removal of the current public version of my Closing Order and Annex III from the Court’s media, their reclassification as confidential, and the filing of new public redacted versions. According to Internal Rules 29(5) and 35(1)(a), any disclosure of the identity of these witnesses in any forum whatsoever may be sanctioned by the Court or referred to the appropriate authorities.
7. I note the Defence’s arguments regarding the mention of the current address of Ao An. This matter does not require the same urgent treatment and has larger ramifications which will benefit from hearing the parties’ argument. I note, however, that Ao An has voluntarily given media interviews in the past.
8. I invite the Defence to consider re-filing its request regarding Ao An’s address urgently before the CIJs until such time as an appeal has been filed before the PTC.

<sup>1</sup> Case File 004/2-D360/1, *Urgent Request for Redaction and Interim Measures*, 23 August 2018.

<sup>2</sup> *Ibid.*, at para. 2.

<sup>3</sup> *Ibid.*, at paras. 3-5, 12.

<sup>4</sup> *Ibid.*, at para. 4.

<sup>5</sup> *Ibid.*, at para. 6.



**FOR THE FOREGOING REASONS, I**

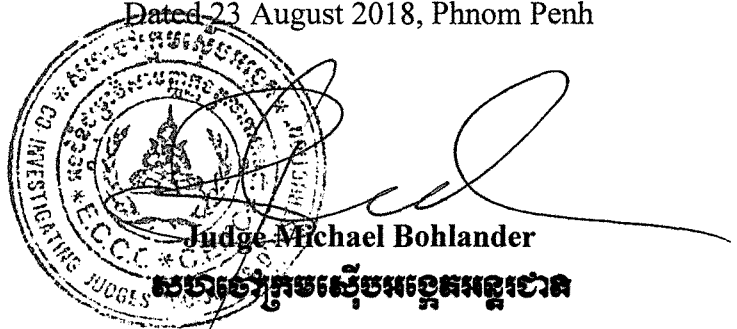
**9. INSTRUCT** the Greffier

- a. to redact the last name of witnesses ██████████ ██████████ and ██████████ from my Closing Order in footnotes 479, 534 and 537 and from Annex III;
- b. to reclassify the current public versions of my Closing Order and Annex III as confidential;
- c. to file redacted public versions as instructed under a. above, and

**10. ORDER** the Court’s Public Affairs Section to remove the current versions of my Closing Order and Annex III **immediately** from the Court’s website and other media and to replace them with the redacted versions as set out under para. 9 above.

This decision is filed in English, with a Khmer translation to follow.

Dated 23 August 2018, Phnom Penh



The seal is circular with a central emblem and text in Khmer and English. The English text includes 'INTERNATIONAL CO-INVESTIGATING JUDGES' and 'E.C.C.C. \* CO-INVESTIGATING JUDGES'. The Khmer text includes 'អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា' and 'អង្គជំនុំជម្រះសហប្រតិបត្តិការអន្តរជាតិ'.

**Judge Michael Bohlander**  
**សម្រេចដោយស្រីបណ្ឌិតអន្តរជាតិ**  
**International Co-Investigating Judge**  
**Co-juge d’instruction internationale**