



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

11 August 2017

PRESS RELEASE

CO-INVESTIGATING JUDGES ISSUE DECISION ON THE IMPACT OF THE FUNDING SITUATION ON CASES 003, 004 AND 004/2

Today, the Co-Investigating Judges issued their decision on the request for submissions filed on 5 May 2017, regarding a potential stay of proceedings due to the funding situation at the ECCC.

A public redacted version can be found at: <https://www.eccc.gov.kh/en/document/court/combined-decision-impact-budgetary-situation-cases-003-004-and-0042-and-related-submi>

The Co-Investigating Judges have decided to defer the decision on a stay of proceedings for the time being due to the responses received from the United Nations (“UN”), the Principal Donors Group (“PDG”) and the ECCC’s Office of Administration (“OA”), as well as the noticeable improvement in the funding situation since the request for submissions was issued.

They informed the Parties and the OA that they will remain actively seized of the matter until the last closing order has been issued. Should a future lack of funds or financial uncertainty threaten judicial independence, fairness, and the integrity of the proceedings, they will take the measures that they consider necessary to address the situation.

This approach of judicial restraint will, however, only remain viable if the future funding matches the court’s requirements by complying with the budget accepted and endorsed by the UN and the PDG in a timely fashion and ideally with early and reliable assurance of compliance, as well as joined-up communication channels. There can be no bridge from the “is” of the prevalent imperfect funding practice on the international level to the “ought” of determining the normative parameters of judicial independence, fair trial and due process.

The Judges invited the OA to report in the future on at least a quarterly basis on the status of the funding vis-à-vis the approved budget, for example, by adding a section on funding development to the public quarterly completion reports. This will provide public accountability for the funding development where it belongs, namely outside specific confidential investigations.

NOTICE ON CONFIDENTIALITY OF DECISIONS

Given the severe breach of confidentiality related to the original request for submissions, the Co-Investigating Judges will not tolerate disrespect of confidential judicial orders any longer. The fact that unlawful leaks of confidential information at the ECCC have in the past been endemic and have gone virtually unpunished is not a justification for continuing this disgraceful practice. As stated in international cases involving violations of judicial confidentiality, individuals, including journalists,

may not with impunity publish information classified by judges as confidential on the basis of their own assessment of the public interest in that information. The Co-Investigating Judges consider disclosing the confidential parts of the decision or any part of its text or of its content not contained in the public redacted version as a violation of Internal Rule 35(1)(a) and will deal with any future offence, also regarding other confidential decisions, according to Internal Rule 35(2) and (4), in connection with Article 314 of the 2009 Cambodian Criminal Code. This applies explicitly also to the media.

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