

**PRESS RELEASE**

**Summary proceedings against the Dutch state concerning unlawful detention of Congolese men  
by the International Criminal Tribunal**

Amsterdam, 29 August 2012 - The Dutch State is in infringement of human rights law by refusing to take care of three Congolese men currently detained as witnesses at the ICC and who have applied for asylum in the Netherlands. Lawyers Channa Samkalden and Göran Sluiter have therefore demanded a preliminary injunction from the court of The Hague. The court hearing will take place on 12 September 2012 at 12 o'clock.

The men were held in the Malaka prison in Kinshasha, Democratic Republic of Congo (DRC), since 2005 without any form of due process. In March 2011, following a request thereto by the defense, they were transferred to the ICC in order to testify in the *Katanga*-case. In their testimony, they accused the current President of the DRC, Kabilla, of involvement in international crimes and grave human rights violations. Partly on this ground, the men applied for asylum in the Netherlands in 2011. A court order was required in order to compel the Dutch State to consider those applications in accordance with Dutch law.

According to international law, the Congolese men must be given the opportunity to await the outcome of their asylum-procedure in the Netherlands. The ICC has therefore decided that at present, the men cannot be sent back to Congo and has requested the Dutch State to facilitate the transfer of the men to Dutch territory. The Dutch State has refused that request. The ICC cannot, however, release the men onto Dutch territory without the cooperation of the Netherlands. A characteristic aspect of the position of the ICC is that it cannot do anything without the cooperation of its Member States – this applies in particular with regard to the host state. The ICC has repeatedly pressed the Netherlands to take action now that there is no valid title to detain the men at the ICC any longer.

The Netherlands however, refuses to do anything and demands that the Congolese men remain detained at the ICC. As such, the Dutch State has ensured that these men – now for a year and a half already – have been deprived of their freedom without a valid legal basis. Moreover, the rules of the ICC offer the men no possibility to challenge their detention. As such, the Netherlands is also depriving the men of the possibility to request a judge to assess their detention in full. The Dutch State is therefore acting in violation of articles 5 and 13 of the European Convention for Human Rights.

In the summary proceedings, the Congolese men are demanding that the Dutch State be compelled to declare itself willing to transfer them from the International Criminal Court into Dutch territory.

---

**Contact person:** Prof. Göran Sluiter, attorney at law – Böhler Advocaten, Keizersgracht 560-562,  
1017 EM Amsterdam. Tel.: +31 (0)20-344 62 00, email: [GSluiter@bohler.eu](mailto:GSluiter@bohler.eu)