

ក្រុមការពារក្តី
ជនសង្ស័យម្នាក់នៅអង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Defence Team for a Named Suspect at the ECCC

Press Release, 21 February 2013

Fair trial threatened in Case 004

It has become apparent over the past months that the United Nations (UN) Administration at the Extraordinary Chambers in the Courts of Cambodia (ECCC) is unable or unwilling to provide the support necessary for our defence team to ensure the fair trial rights of our client – a suspect in Case 004 – are respected.

We, the Co-Lawyers, concur with the position of the Cambodian Co-Prosecutor that our client was not a senior leader of Democratic Kampuchea nor one of those most responsible for the crimes of the Khmer Rouge and that, given our client's alleged lower rank in the Democratic Kampuchea regime, our client does not fall within the jurisdiction of the ECCC. However, as long as the case is ongoing, our client should be able to enjoy the fair trial rights guaranteed to a suspect at the ECCC fully and unconditionally. As a result of a series of actions and omissions by the UN Administration in recent months this no longer appears possible.

The Defence Support Section (DSS) has, once again, refused to pay for necessary and reasonable travel expenses to allow our team to visit our client to take instructions and to plan preliminary enquiries. In such conditions, we are unable to take part meaningfully in the ongoing investigations or to protect our client's rights.

The DSS's recent refusal is part of a pattern of obstruction by the DSS, which started by the refusal –in violation of a judicial order– to recognise Richard Rogers as foreign co-lawyer. Rogers was selected by the client as foreign lawyer in March 2012. A critical threshold has now been reached by the DSS's refusal to authorise travel for the other foreign co-lawyer in the team, Göran Sluiter, who is based in Amsterdam with Böhler Law Firm. The travel request by Sluiter was made in order that he, together with the rest of the defence team based at the ECCC, can seek to address the complex international criminal law issues in this case, including the planning and conduct of Defence investigations in Cambodia. There can no longer be a fair trial if the UN Administrative authorities deprive our client of the right to effective legal assistance.

The Defence team is fully aware of the financial difficulties the ECCC is facing. However, the only legitimate response to practical and financial problems surrounding international criminal justice has been provided by Judge Hunt of the International Criminal Tribunal for the former Yugoslavia (ICTY), as follows:

*The international community has entrusted the [ICTY] with the task of trying persons charged with serious violations of international humanitarian law. It expects the [ICTY] to do so in accordance with [the] rights of the accused [...]. **If the [ICTY] is not given sufficient time and money to do so by the international community, then it should not attempt to try those persons in a way which does not accord with those rights.**¹*

If the ECCC lacks the financial resources to properly fund the defence team, then the case against our client should be dismissed. If the DSS maintains its obstructive position, we will take appropriate further steps, including a request to the Co-Investigating Judges to dismiss the case on the basis that the ECCC is unable to provide our client with a fair trial.

Co-lawyers

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¹International Criminal Tribunal for the former Yugoslavia, Dissenting Opinion of Judge David Hunt on Admissibility of Evidence in Chief in the Form of Written Statement, *Prosecutor v. Milošević*, 30 September 2003, para. 22, emphasis added.