

ក្រុមការពារក្តី ជនសង្ស័យម្នាក់នៅអង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Defence Team for a Named Suspect at the ECCC

Press Release – Phnom Penh, 6 June 2013

Co-Investigating Judges must ensure equality of treatment of parties in Case 004

The Co-Lawyers for a named suspect in Case 004 at the Extraordinary Chambers in the Courts of Cambodia (the suspect's name remains confidential during the ongoing investigation) call on the Co-Investigating Judges to move immediately to ensure the fair trial rights of our client and to guarantee equality of treatment with other parties in Case 004 by granting the suspect immediate access to the case file.

ECCC law explicitly guarantees all parties to proceedings the right to access the case file at all times. Yet one year after our client selected Mom Luch and Richard Rogers as national and international lawyer and over seven months since Göran Sluiter was selected as the second international lawyer, the case proceeds against our client without access being granted to the case file. The suspect stands accused of crimes without being provided any information as to the nature and cause of these allegations.

The treatment of the suspect stands in stark contrast to the treatment of civil parties in Case 004. In April 2013, Co-Investigating Judge Mark Harmon issued a decision granting access to the case file to twenty civil party lawyers. In this decision, Judge Harmon held that “recognised lawyers have the right to examine and make copies of the original case file of the judicial investigation to which their client is a party”. However, in a decision on 17 May 2013, in which Judge Harmon recognised Mom Luch and Göran Sluiter as lawyers for the suspect, he neglected to grant access to the case file. This omission is particularly perplexing given the explicit nature of ECCC law guaranteeing access to the case file and given Judge Harmon's own ruling that recognised lawyers have the right to access.

The disparity in treatment of the suspect and the civil parties is in violation of the suspect's rights guaranteeing fairness in proceedings and a balance of rights between the parties – namely the prosecution, the civil parties and the defence. The situation as it stands now entails a hierarchy of rights at the ECCC whereby the rights of the suspect are subordinate to those of the prosecution and the civil parties. In order to uphold the fair trial rights of the suspect, the Co-Investigating Judges must grant the defence immediate access to the case file. A failure to do so will undermine the integrity of the entire proceedings in Case 004.

Furthermore, given the responsibility of prosecutors in international and internationalised tribunals to ensure equality and fairness of proceedings, the co-lawyers call upon the Co-Prosecutors to express a view on the matter of equal access to the case file.

Co-lawyers for the suspect

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