

## PRESS RELEASE

1 February 2012

This morning, Michiel Pestman and Andrew Ianuzzi, defence counsel at the Extraordinary Chambers in the Courts of Cambodia, filed a timely notice of appeal with the Office of the Royal Prosecutor (the 'ORP') attached to the Phnom Penh Municipal Court. The notice was filed in response to the ORP's official decision to 'file without processing' our criminal complaint against Prime Minister Hun Sen and a number of other senior officials of the Royal Government of Cambodia (the 'RGC'). In other words, the prosecutor has decided 'to drop the criminal charges against' the alleged perpetrators.

The complaint, filed late last year, stated that—individually and through their participation in a common criminal plan—the named RGC officials were guilty of interfering with the administration of justice at the ECCC. In particular, it was argued that Hun Sen and/or his alleged co-perpetrators had: (i) publicly indicated that certain witnesses should not testify in Case 002; (ii) publicly opposed further investigation and proceedings in Cases 003 and 004; (iii) flouted ECCC summonses to appear for testimony in Case 002 without valid reason; and (iv) prevented ECCC letters inviting Norodom Sihanouk to testify in Case 002 from reaching the King Father.

Following the ORP's decision to drop the case, we were granted only a limited right of access to the case-file. In particular, we were provided with copies of six dismissal orders relating to the various charges contained in our complaint. In each case and with respect to each alleged perpetrator, it was determined that, for lack of evidence, no criminal offence had taken place. Generally, the ORP relied upon the previous statements of various RGC officials—the very individuals who were the subjects of the complaint—asserting that the government was not interfering in the work of the ECCC. For example, a public statement of Co-Investigating Judge You Bunleng to this effect was presented as proof that the OCIJ has been performing its work without any political influence. As to the failure of six of the named individuals to give testimony at the ECCC, the ORP simply noted that we had presented no evidence that these individuals had in fact received copies of their summonses. And, with respect to the charges against Hun Sen, it was asserted that the Prime Minister 'has an obligation to ensure political stability, peace, and the wellbeing of the Kingdom of Cambodia', suggesting that he is entitled to make any statement or take any action to further these ends. As far as we have been able to ascertain, no independent investigation—beyond a review of the supporting material we submitted—was conducted by the ORP.

For reasons we intend to submit before the Court of Appeal in due course (once our case is officially forwarded to the Office of the Prosecutor-General), we take the position that the justifications advanced by the ORP are factually and legally absurd. We are currently seeking the assistance of an experienced Cambodian criminal defence lawyer to assist us in gaining full access to the case-file, something we have thus far been denied.

On appeal, in addition to calling for an *actual* investigation into the facts of our complaint, we intend to seek further criminal charges against Hun Sen, who recently and publicly characterized Nuon Chea's testimony at the ECCC as 'deceitful'. Additionally, the Prime Minister referred to our client as a 'killer' and 'genocide [perpetrator] defending himself in an effort to evade the crime'. Apart from amounting to a crime under the Penal Code, the Prime Minister's recent statements demonstrate his disregard for this country's constitutional commitment to the concept of separation of powers. Such remarks are an unfortunate reminder of the manner in which Hun Sen continues to dominate the Cambodian judiciary, which all too often employs the 'law' to promote political agendas and protect those in power—in courtrooms both ordinary and extraordinary. In fact, time and again, it has been Hun Sen and his RGC associates who have managed to avoid responsibility for their own culpability and who continue to reign with impunity.