

PRESS RELEASE

Judge orders the Netherlands to accept transfer of Congolese ICC-Witnesses

Judge: The refusal by the Netherlands to take over the care for three Congolese witnesses of the International Criminal Court is a violation of human rights

Amsterdam, 26 September 2012 – The District Court of the Hague has ordered the Dutch State to declare itself willing – towards the International Criminal Court (‘ICC’) – to accept the transfer of three Congolese witnesses and to enter into deliberations with the ICC in that respect. The lawyers for the Congolese men, Channa Samkalden and Göran Sluiter, had filed summary proceedings requesting the judge to do so. The lawyers are pleased that the desperate situation of their clients finally seems to have come to an end.

After a detention in the Democratic Republic of Congo (DRC), the men were transferred to the ICC in 2011 to testify as witnesses. Partly due to the incriminating testimony they gave against president Kabila, they applied for asylum in the Netherlands in May 2011. The ICC decided that the men ought to be given the opportunity to await the outcome of those procedures in the Netherlands.

The ICC is unable to release detainees without cooperation from the Netherlands. Because the witnesses could not be sent back to the DRC, and in the absence of a valid reason to keep them detained, the ICC had requested that the Netherlands cooperate with a transfer of care. The Netherlands refused this request.

During the trial hearing on 12 September 2012, the lawyers argued that this refusal violates the European Convention on Human Rights. The Dutch State asserted that the Netherlands lacked jurisdiction and that the Convention was therefore inapplicable.

In the verdict, the judge held that *the State must concern itself with the fate of the plaintiffs and not allow their continued detention at the ICC pending (...) the asylum procedures, the end of which is not yet in sight. The State must therefore enter into deliberations with the ICC so as to end the unlawful detention of the plaintiffs.* [free translation]

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