

ក្រុមការពារក្តីជនសង្ឃឹយម្នាក់នៅអង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Defence Team for a Named Suspect at the ECCC

Press Release
Phnom Penh, 8 January 2014

**Continuing Failure to Provide Suspect in Case 004 Access to Case File Threatens
Fair Trial Rights and Proper Administration of Justice**

The Office of Co-Investigating Judges (OCIJ) at the Extraordinary Chambers in the Courts of Cambodia (ECCC) continues to deny the Defence team of a Named Suspect in case 004 access to the case file. The case file contains details of the investigations carried out by the OCIJ. Access to this information is vital to protect the Suspect's fair trial rights and ensure the proper administration of justice.

On 24 February 2012, in the written Notification of Suspect's Rights [Rule 21(1)(d)], and orally on 29 February 2102, International Co-Investigating Judge Laurent Kasper Ansermet ordered that a suspect in case 004 should be provided access to the case file. It has been almost two years since that order was issued, and it has never been enforced.

The newly-appointed International Co-Investigating Judge, Mark Harmon, took office in October 2012 and has taken more than seven months to respond to the Defence's repeated and urgent requests to access the case file. In July 2013, he reversed the order from his predecessor and denied the Defence's requests to access to the case file.

The Defence team immediately filed an appeal against that decision with the Pre-Trial Chamber. That appeal has now been before the Pre-Trial Chamber for five months without any information as to when the Pre-Trial Chamber will issue a ruling.

During the long period in which the Defence has been denied access to the case file, Judge Harmon has conducted -- and continues to conduct -- investigations, without informing the Defence about any developments regarding these investigations.

We, the Co-Lawyers of a Named Suspect in case 004, are deeply concerned about the fact that we continue to be denied access to the case file, for years, and that judges at the ECCC have failed to respond in a timely manner to Defence motions and appeals.

It must be borne in mind that the Named Suspect in case 004 has been formally notified about the ongoing investigations against him and that these investigations concern the most serious crimes known to mankind. He is seriously affected by these investigations, and the denial of access to the case file is inconsistent with his rights and interests. This denial of access jeopardises his right to a fair trial because only with knowledge of the case file can there be preparation of a proper and effective defence. Moreover, access to the case file is in the interest of the administration of justice, as it will allow the Defence to participate in the investigations, thereby ensuring an even-handed and balanced approach.

It is with regret that we must conclude that the International Co-Investigating Judge is apparently not interested in any contribution the Defence may offer to the quality and scope of the investigations. We are also concerned that if and when access to the case file will be granted, there will not be sufficient time and means available to the Defence to: (a) challenge the investigative methods and results; (b) file requests for further investigative action.

After having waited for years to know if and what type of evidence exists against our client, we call upon all actors involved in case 004 to provide our Defence team with access to the case file.

As we have repeatedly indicated, investigations in case 004 should be conducted in a fair and transparent manner, or they should not be conducted at all.

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