



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des tribunaux cambodgiens

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

To: The Honorable You Bunleng, National Co-Investigating Judge
The Honorable Mark Harmon, International Co-Investigating Judge
Office of the Co-Investigating Judges

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 07-Feb-2013, 13:00
CMS/CFO: Sann Rada

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Isaac Endeley, Chief
Defence Support Section

7 February 2013

Subject: Request for Clarification

Honorable Judges,

1. I write to request your advice and guidance regarding the status of Defence Co-Lawyers assigned to represent Suspects in Cases 003 and 004.
2. As you surely recall, on 6 March 2012 the former Reserve International Co-Investigating Judge instructed the Defence Support Section (“DSS”) to, *inter alia*, assign Defence Counsel to represent each of the Suspects in Cases 003 and 004, pursuant to Internal Rule 11(2) (e), (f), (g), (h) and (i). In compliance with the instruction and in order to uphold the rights of the Suspects under Internal Rules 21 and 22, DSS conducted field missions to meet with the Suspects on 14-17 March 2012, 25-26 March 2012 and 11-13 July 2012. On the basis of requests made by two of the five Suspects during those meetings or shortly thereafter, and relying on their claims of indigence, DSS has proceeded to assign Defence Co-Lawyers and support staff to represent them under the ECCC’s Legal Assistance Scheme (“LAS”).
3. On 3 May 2012, I wrote to your office notifying you that I had formally assigned Mr. MOM Luch as the Cambodian Co-Lawyer for Mr. TA An, a Suspect in Case 004. On 5 October 2012, I also wrote to notify you of the assignment of Mr. Göran Sluiter as the Foreign Co-Lawyer for Mr. TA An. Similarly, on 18 December 2012 I notified you that I had assigned Mr. ANG Udom as the Cambodian Co-Lawyer and Mr. Michael G. Karnavas as the Foreign Co-Lawyer for Mr. MEAS Muth, a Suspect in Case 003. In addition, DSS is currently considering a third Suspect’s request for the assignment of counsel.
4. To date, I have not received any response or formal acknowledgement from your Office regarding these assignments. Therefore, it remains unclear to me whether your Office recognizes or rejects these lawyers assigned under the Legal Assistance Scheme to represent the above-named Suspects. I have also been informed that the assigned Co-Lawyers have been refused access to the respective case files. Consequently, they are unable to adequately represent their clients, raising serious concerns about the fair trial rights of the Suspects. This also places DSS in the difficult position of expending already scarce funds under the Legal Assistance Scheme to pay lawyers who cannot fully perform their jobs.

I.E.

- 5. For the foregoing reasons, and particularly in light of the difficult financial situation the ECCC is currently facing, I would be grateful to receive clarification from your Office as soon as possible. On the one hand, if Your Honors are determined not to recognize the lawyers assigned as a result of the instruction of 6 March 2012, or if you believe that the Suspects in Cases 003 and 004 are not yet entitled to have assigned counsel, please let me know. On the other hand, if you determine that the lawyers have been properly assigned pursuant to the instruction of 6 March 2012, I would request that you recognize and grant them access to the case files as soon as possible in order to protect the fair trial rights of the Suspects.

Respectfully submitted.

Sincerely Yours,

Isaac Endeley, Chief
Defence Support Section



CC: Mr. KRANH Tony, Acting Director of the Office of Administration

Mr. Knut Rosandhaug, Deputy Director of the Office of Administration/
UNAKRT Coordinator

Mr. Rajeev Kumra, Senior Programme Management Officer