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25 January 2019

BAR ASSOCIATION
 OF AMSTERDAM

CONFIDENTIAL

Extraordinary Chambers in the Courts of
 Cambodia (ECCC)
 For the attn. of Mr K. Roberts, Senior Legal Officer
 PO Box 71
 Phnom Penh
 CAMBODIA

Amsterdam, 25 January 2018
 PvRA/pdj

Our ref.: 40-15-0862
Your ref.: Mr Nuon Chea - Case 002/02



Dear Mr Roberts,

I enclose a copy of my letter of today to the Disciplinary Council (**attachment**) and a copy of the accompanying inventory (**attachment**).

The Disciplinary Council will keep you informed of developments in due course.

Yours sincerely,

[signature]

P.N. van Regteren Altena

DEAN OF THE BAR ASSOCIATION OF AMSTERDAM
 Mr P.N. Van Regteren Altena

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BAR ASSOCIATION
OF AMSTERDAM

CONFIDENTIAL

Disciplinary Council
For the attention of Mrs S. van Excel,
Registrar,
Postbus 76334
1070 EH AMSTERDAM

Amsterdam, 25 January 2018
PvRA/kb

Re: Cambodia Trial Chamber/Mr V. Koppe
Case: 40-15-0862

Dear Madam,

I am writing to inform you of the complaints of the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia, hereinafter referred to as the ECCC, against Mr V.L. Koppe, some of which relate to the period up to 1 January 2016, when Mr Koppe was still registered as a lawyer in Amsterdam but in fact had for many years had an office in Phnom Penh, Cambodia, and some to the period during which Mr Koppe was still registered as a lawyer in Cambodia but was not registered as a lawyer in the Netherlands and, according to Dutch standards, was therefore a former Dutch lawyer.

The addresses are as follows:

Complainant:
Extraordinary Chambers in the Courts of Cambodia ("ECCC")
Attn. Mr K. Roberts
PO Box 71
Phnom Penh
Cambodia

(roberts13@un.org)

Defendant:
Extraordinary Chambers in the Courts of Cambodia ("ECCC")
Nuon Chea Defence Team
Attn. Mr V.L. Koppe
PO Box 71
Phnom Penh
Cambodia

(koppe@un.org)

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Original Dutch: 01564052-01564058 – Unrevised translation

1. The complaints

The defendant is appearing before the ECCC as the lawyer of Mr Nuon Chea who, as one of the suspects, is on trial for crimes against humanity, genocide, war crimes and violations of international humanitarian law committed during the regime of Democratic Kampuchea in Cambodia (the Pol Pot-led Khmer Rouge) between 17 April 1975 and 7 January 1979. The defendant assisted Nuon Chea before the Trial Chamber together with his colleague Mr M. Pestman and later, both before in the first and in the second instance, as the only Dutch lawyer. Mr Koppe has already for many years represented Nuon Chea and for that purpose also settled in Cambodia.

As a lawyer acting for one of the suspects, Mr Koppe is subject to the Internal Rules of the ECCC that stipulate, among other things, that if a lawyer acts in violation of the rules of the ECCC, the supervisor in the country where the lawyer practices is authorised to handle the complaint in accordance with the applicable regulations in that country.

My competence as a dean to investigate the complaints submitted by the ECCC and the competence of your council to rule on this matter as disciplinary judge are also not in question.

The complainants complain - very briefly - that the defendant was guilty of misconduct towards judges in the ECCC and that he has also shared with the media statements, which in the opinion of the complainants constitutes misconduct, and in addition shared these with the media in violation of the order to keep his so-called "closing briefs" confidential.

The defendant is the lawyer of a suspect in criminal proceedings. The complaint originated in the Trial Chamber where the suspect was on trial.

2. Investigation

2.1. The progress of the investigation is explained in the accompanying case file.

2.2. The investigation was carried out by myself.

2.3. There was no conciliation procedure.

2.4. The court fees were paid by the complainants.

3. Content of the complaints (annexes 1, 9 and 16)

In the letter of complaint dated 11 December 2015, the ECCC accused the defendant of misconduct during the hearing of the [international] Trial Chamber in the first instance dated 26 August 2015 (annex 1) by making the following statements during the hearing and subsequently walking out of the courtroom:

- The defendant previously made a statement in defence of his client, namely that one of the judges of the chamber of first instance, Judge Lavergne, "made cowardly decisions and repeatedly lacked judicial integrity";

- The defendant informed Judge Fenz that he “very much” regretted the decision of his team not to demand that Judge Lavergne be disqualified and indicated that, compared to his experience with another trial, “Judge Cartwright was indeed a shiny and bright beacon of impartiality”;
- The defendant further stated: “It is indeed true that it is your prerogative to shut me up. And it is my prerogative not to say a word anymore. So it’s take it or leave it. Or nothing”;
- The defendant said to Judge Lavergne: “I was giving you my reasons, but you don’t want to listen”;
- The defendant informed Judge Lavergne: “To be honest, Judge Lavergne, I don’t really care what you think”; and
- The defendant noted that if the ECCC were a common law court and “if I were charged with contempt of court, I would have happily pleaded guilty. I have indeed nothing but professional contempt for the international judges of this trial.”

In an addendum dated 19 February 2016 (annex 9), the ECCC extended the complaint and objected to a number of comments made by the defendant in an interview that appeared in the Mekong Review of 3 February 2016. It concerns the following comments:

- When asked whether he would change his behaviour, the defendant replied: “No. I have strong professional contempt for the French judge [Jean-Marc Lavergne] particularly. If that is going too far, then so be it”;
- When asked whether the defendant had anything against the judge, he answered: “Yes”. The interviewer, Mr Mingh Bui Jones, asked, “Because he’s French?” The response of the defendant was: “No, not because he’s French, no, I like French people. It would be too easy. He does everything he can to prevent me asking questions. He is on an active path to try and prevent [Nuon Chea’s] story being told”;
- “The words: ‘I have nothing but professional contempt for the international judges’ was a sentence that I thought out before I said it.” When asked if he anticipated the response, according to the interview, the defendant said: “Yes, I’ve chosen those words carefully. I’ve chosen those words because they were and they still are on the very edge of what I can say”;
- “If you’re in that courtroom day in day out, you know... it’s unbearable, day in day out, to be faced with that French judge, who is the ultimate combination of bias, incompetence and dumbness. People don’t understand how hard that is”;
- In reply to the question as to whether there would be any consequences for his misconduct, the defendant answered: “I sincerely doubt it. My predecessors, Michiel [Pestman] and Andy Ianuzzi, got complaints at their Amsterdam and New York bars [respectively]. I don’t think they responded. As a matter of fact, as I said to the [press], I’m actually quite happy with it.”

In a second addendum dated 26 June 2017 (annex 16), the ECCC filed a third complaint to the effect that the defendant had failed to comply with the prohibition on confidentially submitting the so-called closing briefs submitted by him on behalf of his client. The defendant requested that this prohibition be lifted, but the International Co-Investigating Judge upheld the prohibition and advised that any request for reconsideration be submitted to the Chamber. The defendant then argued as follows: “I find it completely irrelevant if you deem it appropriate or not that I directly intervene with you. You are now the one that is effectively gagging my client. That is as I wrote to you yesterday unacceptable. I do not [*sic*] consider myself bound by whatever you or the Trial Chamber has to say on the matter of confidentiality any longer and shall therefore act accordingly.” Shortly thereafter an article appeared in the Cambodia Daily in which the closing brief of the defendant was discussed at length and it was stated that the newspaper had got hold of a copy of the closing brief.

The ECCC still regards this contested action as misconduct on the part of the defendant, and that means that they consider that the defendant has infringed article 46 of the *Advocatenwet* [Lawyer’s Act] that applies to the assessment of the contested action and that, according to the ECCC, he acted in a manner that is unbecoming of a lawyer worthy of the title.

4. Defence (annexes 4, 12, 16, 20)

The defendant does not dispute the fact that he made the statements of which he is accused by the ECCC or that he carried out the actions of which he is accused by the complainants. He indicated that, given the circumstances set out in his defence, he had made very critical statements on a number of points concerning a number of judges in their capacity as members of the [International] Trial Chamber, but that these statements were exclusively based on their functions as judges and not on their person, so that he remained within the limits of the freedom afforded him to represent the interests of his client. The defendant concludes that the various elements of the complaint are unfounded.

5. Investigation (continued)

5.1. I have closed the investigation and inventorised the items and mentioned them on the inventory. The inventory is attached.

I am sending today a copy of this letter and the inventory to the ECCC and to the defendant.

Yours sincerely,

[signature]

P.N. van Regteren Altena

12.	Letter from the defendant to the Dean dated 14 January 2017	Response of the defendant to addendum
13.	Letter from the Dean to the parties dated 24 January 2017	Confirmation of receipt of all the documents and opportunity for last response and explanation of the court fees
14.	Letter from the complainants to the Dean dated 23 February 2017	Response of the complainants to the 2nd response of the defendant
15.	Letter from the Dean to the parties dated 7 March 2017	Referral of the response of the complainants to the defendant and request for response
16.	Letter from the defendant to the Dean dated 27 March 2017	3rd response of the defendant; waives further substantive response
17.	E-mail from the Dean to the parties dated 5 April 2017	Confirmation of receipt of last response, notification of completion of investigation and request for transfer of court fees
18.	Letter from the complainant to the Dean dated 26 June 2017	New information complainants, addendum 2
19.	E-mail from the Dean to the parties dated 3 August 2017	Referral of 2nd addendum to defendant and request for response
20.	E-mail from the defendant to the Dean dated 28 August 2017	Response of defendant to 2nd addendum; waives further substantive response

INVENTORY 40-15-0852;

ECCC/Mr Koppe

1.	Letter from the complainants to the Dean dated 11 December 2015	1st complaint
2.	E-mail from the Dean to the defendant dated 16 February 2016	Referral of complaint
3.	Letter from the Dean to the parties dated 15 March 2016	Explanation of complaint procedure and request for response
4.	Letter from the defendant to the Dean dated 21 April 2016	1st response to complaint
5.	Letter from the Dean to the parties dated 8 July 2016	Request for response of complainant to the 1st defence
6.	Letter from the complainants to the Dean dated 26 August 2016	Response of the complainant to the 1st defence
7.	Letter from the Dean to the complainants dated 1 September 2016	Request to send addendum to complaint
8.	Letter from the Dean to the defendant dated 1 September 2016	Referral of response to the complainant and explanation of progress
9.	Letter from the Dean to the complainant dated 18 October 2016	Reminder of request for referral of addendum
10.	Letter from the complainants to the Dean dated 24 November 2016	Response of the complainant with addendum to the complaint
11.	Letter from the Dean to the parties dated 7 December 2016	Referral of addendum to the defendant and request for response