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Cambodia: Immediately appoint International Co-Investigating Judge at Khmer Rouge Tribunal

Amnesty International calls for Cambodia's Supreme Council of Magistracy to meet immediately and appoint reserve Judge Laurent Kasper-Ansermet as the International Co-Investigating Judge at the Extraordinary Chambers in the Courts of Cambodia (ECCC). The appointment is required in accordance with the agreement establishing the Tribunal between the UN and Cambodian government.

The government and the Tribunal's donors must give Judge Kasper-Ansermet the full support necessary to undertake investigations in Cases 003 and 004 properly, preferably in collaboration with his Cambodian counterpart Judge You Bunleng. Proper investigations would repair some of the damage done in the last year and restore confidence in the ECCC. Cases 003 and 004 involve five suspects and alleged crimes against humanity, war crimes and other serious crimes during the period of Khmer Rouge rule in Cambodia.

Although 2011 saw the welcome start of the trial of three alleged Khmer Rouge leaders in Case 002, the year also saw the ECCC undermined by developments in Cases 003 and 004. As the Cambodian government continued to publicly oppose prosecutions beyond those in Cases 001 and 002, court observers accused then Co-Investigating Judge Siegfried Blunk and Judge You Bunleng of deliberately scuppering Cases 003 and 004 without undertaking proper investigations.

After sustained criticism and calls by observers for an investigation into his conduct, Judge Blunk resigned in October 2011, citing statements by the Cambodian government that could be perceived as attempted interference. The reasons behind his failure to undertake proper investigations and his resignation remain unclear. Soon after his resignation, however, the two International Pre-Trial Chamber Judges issued a minority opinion documenting a litany of errors, and concluding that there had been a highly suspect manipulation of documents and unfair exclusion of victims by the Co-Investigating Judges from participating in investigations in Cases 003 and 004.

Three months after Judge Blunk's resignation, the obstruction of the investigation of Cases 003 and 004 continues. Perceived as being under Cambodian government influence, the Supreme Council of Magistracy has yet to formalize the appointment of reserve Judge Kasper-Ansermet, despite an official request by UN Secretary-General Ban Ki-moon. With a public and increasingly acrimonious disagreement between Judge You Bunleng and reserve Judge Kasper-Ansermet, the Office of the Co-Investigating Judges is paralyzed. Work on Cases 003 and 004 has apparently stalled, thus fulfilling the Cambodian government's stated wishes that they should not go ahead at all.

The continuing obstruction of justice in Cases 003 and 004 not only amounts to impunity for serious crimes committed during the period of Khmer Rouge rule in Cambodia, but also risks undermining the Tribunal's other cases. Revelations about the conduct of the

investigations and political interference in Cases 003 and 004 may raise questions about the investigations in Cases 001 and 002. Should the obstruction of justice continue, there is a serious risk that any judgments the ECCC issues will be perceived as tainted in the eyes of the victims and the Cambodian public.

Unless urgent action is taken to resolve the current situation, justice for the victims of the Khmer Rouge and to the Cambodian people as a whole may be denied; while the potential of the ECCC to serve as a model of justice for the domestic courts, and – through example – strengthen the rule of law in Cambodia, may be wasted.

ENDS/

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