

Judge's Exit Shakes KR Tribunal
Bridget Di Certo
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In the wake of the shock resignation of reserve co-investigating judge Laurent Kasper-Ansermet, the international body that appointed him had little to say on the matter – rights groups were more vocal.

In a press briefing yesterday, Eduardo del Buey, deputy spokesperson for UN secretary-general Ban Ki-moon, said the UN was examining the situation at the Khmer Rouge tribunal closely, but would say no more.

When contacted by the Post, the UN provided no further information about what it plans to do when Kasper-Ansermet vacates his position on May 4, at which point the Office of the Co-Investigating Judges will be without any international co-investigating judges – a situation that observers say threatens the UN's credibility.

“What is at stake here now is the UN as the key driver of international justice. If it keeps using strong words but never takes any action, it raises questions,” Amnesty International's Cambodia Researcher Rupert Abbott said yesterday.

“In terms of legacy, it demonstrates that interference by the Royal Government of Cambodia will win through and impunity overrules accountability.”

Likewise, Human Rights Watch called the latest development in a pattern of obstructions to case 003 and 004 a “disaster” for victims.

“The UN will have to think hard about whether to continue its participation in the Khmer Rouge trials,” HRW Asia director Brad Adams said.

Kasper Ansermet, a Swiss national, is the reserve international co-investigating judge.

He has assumed the duties of his predecessor, Siegfried Blunk, who stepped down six months ago, citing political interference in the tribunal as his motivation.

At the time, under-secretary general for legal affairs Patricia O'Brien travelled to Phnom Penh to personally tell Deputy Prime Minister Sok An and the Cambodian government to refrain from interfering in the judicial process at the ECCC.

Despite this and a commitment from the UN to continue to monitor the situation at the ECCC closely, another international judge has quit his role investigating government-opposed cases 003 and 004 a mere six months later.

Although Kasper-Ansermet did not expressly point his finger at the Royal Government of Cambodia, the government's Supreme Council of Magistracy refused to endorse the Swiss judge and his Cambodian counterpart claimed this meant Kasper-Ansermet's actions were invalid and without legal authority.

You Bunleng told the Post yesterday that allegations he had been obstructing his international counterpart were incorrect.

"I did not obstruct him, I just did not recognise his work, and I told him that what he is doing is not the legal procedure," You Bunleng said.

"If the OCIJ does something improperly, other parties will object.

"If [Kasper-Ansermet] wants to continue his investigation, he can – but it will lead to this result, and I think maybe he thought that result is useless and that is why he decided to stop himself."

As reported by the Post yesterday, the rapidly deteriorating situation at the court has embroiled almost all offices, splitting staff down national and international lines in respect to cases 003 and 004.

A source close to the court has informed the Post that the Pre-Trial Chamber has particularly become divided over issues stemming from those cases.

Kasper-Ansermet has previously called for the disqualification of Pre-Trial Chamber president Prak Kimsan, citing serious concerns about the lack of impartiality in the handling of his attempt to register a disagreement with his Cambodian counterpart.

In a public statement yesterday, the two international judge of the chamber Rowan Downing and Chang-Ho Chung recused themselves from the disqualification proceedings as they have previously issued a critical opinion of Prak Kimsan's actions.

However the disqualification proceedings are all but non-existent, and no steps have been taken by the Judicial Administration Committee to convene a chamber of judges to make a determination on Kasper-Ansermet's application for Prak Kimsan's disqualification, the source said.

The international judges themselves pointed out in yesterday's statement that Prak Kimsan unilaterally returned the matter to Kasper-Ansermet two days after he made the request, without any deliberations or judicial discussion.

Questions delivered to the tribunal about the extent of the deteriorating situation there were not answered by court personnel before publication yesterday.

Legal communications officer Lars Olsen said he could not comment on Kasper-Ansermet's allegation of a "dysfunctional situation" at the court.

"As 'the court' has several independent and autonomous chambers and entities, it is not possible to provide a single response to this question," Olsen said by email yesterday.

The Cambodian Centre for Human Rights, meanwhile, called on the UN to undertake investigations into political interference at the tribunal following Kasper-Ansermet's resignation.

"Justice for the victims of the Khmer Rouge hangs in the balance as a result of this latest development," CCHR president Ou Virak said yesterday.

"Despite assurances from the UN that allegations of political interference were being dealt with, we find ourselves with another international investigating judge tendering his resignation on grounds of interference. This is not acceptable."