

## **KRT judges warn press on 003**

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Judges at the Khmer Rouge tribunal issued a warning to the media yesterday following a newspaper article that quoted extensively from an alleged classified document from the court's controversial third case.

In an article published on Wednesday, the United States-based Christian Science Monitor said it had obtained a 2008 document in which prosecutors outline allegations against former KR navy commander Meas Mut and air force commander Sou Met, reportedly the suspects in the court's third case.

In response, the co-investigating judges at the Extraordinary Chambers in the Courts of Cambodia, as the tribunal is formally known, issued a statement yesterday evening warning journalists about reporting on the document.

“As the Co-Investigating Judges have credible information that the content of the Second Introductory Submission, which is classified as confidential, has been divulged by a disloyal staff member of the ECCC, warning is hereby given that anyone publishing information from this confidential document is liable to be subjected to proceedings for Interference with the Administration of Justice pursuant to Internal Rule 35,” the statement read.

The statement follows a rebuke by the judges last month against international co-prosecutor Andrew Cayley, who had issued a statement saying that Case 003 “had not been fully investigated” despite the judges’ announcement in April that they had concluded their probe. Cayley’s statement revealed the judges’ inaction over the 20 months that the investigation was open, even in the face of alleged offences including crimes against humanity and grave breaches of the Geneva Conventions.

Despite the gravity of these allegations, the judges conducted little field investigation in the case, leading critics to charge that they deliberately botched their investigation under pressure from the Cambodian government, which opposes prosecutions beyond the upcoming Case 002. The judges neglected to examine a number of alleged crimes sites, and the suspects in the case were not even questioned.

In response to Cayley’s statement, the judges ordered him to publish a retraction, accusing him of breaching the court’s confidentiality rules. Cayley has appealed this order, calling it “unreasonable” and “an abuse of discretion”.

The report in the Monitor this week raises further questions about the judges' handling of the case, suggesting that there is voluminous evidence on which to prosecute Sou Met and Meas Mut.

“Sou Met and Meas Mut participated in a criminal plan to purge the RAK [Revolutionary Army of Kampuchea] of all undesirable elements, which resulted in at least thousands and quite probably tens of thousands of deaths,” the Monitor said, quoting from the alleged document.

The article added that prosecutors had requested that the court detain Meas Mut and Sou Met in view of the grave allegations against them.

“In addition to their military roles, the court submission claims they were influential figures in the Communist Party of Kampuchea (CPK), as the regime's political entity was known, with Sou obtaining ‘one of the highest ranks within the CPK,’” the Monitor said.

“Both attended meetings where planned purges of the armed forces were discussed, prosecutors claimed.”

“Also according to the document,” the Monitor went on, “a commander who reported directly to Sou was responsible for overseeing the construction of a military airport that also functioned as a ‘re-education or tempering site’ for soldiers suspected of harboring disloyalty toward the regime. Witnesses interviewed by the prosecution described horrific conditions at the construction site, where starving workers perished daily as a result of ‘strenuous and unrelenting labor.’”

“‘Those who did not work to the satisfaction of the guards were often executed in the forest just west of the airfield site,’ according to witness accounts.”

The newspaper added that the alleged document also details atrocities that took place at sites including “a Buddhist temple used as a detention center, and a rock quarry where prisoners included fishermen, navy sailors, and ‘people whose relatives had been members of the previous regime.’”

The report appeared to corroborate extensive evidence against Meas Mut and Sou Met from scholars such as Stephen Heder and Brian Tittmore, who named the cadres in their influential 2003 paper “Seven Candidates for Prosecution: Accountability for the Crimes of the Khmer Rouge”.

Investigating judges Siegfried Blunk and You Bunleng claimed in a statement last month that they were “resolved to defend their independence against outside interference, wherever it may come from”. But Clair Duffy, a trial monitor with the Open Society Justice Initiative, said the lack of action in Case 003 despite the abundance of available evidence “makes it clear there was never any judicial will to pursue these cases properly”.

“We maintain that this investigation, the Case 003 investigation, has never complied with international investigative standards,” she said. “We know exactly what the state of this case is now, and that is that it will never have been properly investigated.”

Yesterday’s warning from Blunk and You Bunleng marks the second time in the past few weeks that they have targeted members of the press. In response to an article in the International Justice Tribune critical of their inaction in Case 003, Blunk and You Bunleng issued a statement responding to what they said were “misrepresentations” of their work.

“The reported statements ‘the tribunal is in danger of collapse’ and ‘the court’s future hangs in the balance’ are ... nonsensical and do not correspond with reality,” the statement read.

“The Co-Investigating Judges have worked independently from outside interference, will continue to resist all such attempts, and are resolved to defend their independence.”

As more information has emerged about Case 003, however, observers have been increasing critical of the investigating judges, accusing them of undermining the legacy of the court due to professional cowardice.

As of yesterday evening, local news blog KI-Media had posted excerpts of the alleged Case 003 document under the headline, “Your Honor Clowns-In-Judicial robes at the ECCC, you mean this confidential document?”

Anne Heindel, a legal adviser with the Documentation Centre of Cambodia, said protecting confidential information including the identities of witnesses was a valid concern. She added, however, that the tone of the judges’ statement was in keeping with their attempts to prevent “accurate discussion of the case”.

“They’ve attacked the prosecutor, they’ve attacked the press, they’ve decided to make decisions based on invented technicalities,” she said.

“I think people should be fairly sceptical of anything that they say and actions that they take, because it all seems designed to bury this case.”

ADDITIONAL REPORTING BY CHEANG SOKHA