

Ongoing Row Marks Khmer Rouge Court: Analyst

Bridget Di Certo

July 9, 2012

Mutual antagonism between Nuon Chea's international lawyers and judges hearing the case against the accused war criminal is bleeding through proceedings in Case 002, a legal expert said at the weekend.

Anne Heindel, legal adviser to the Documentation Center of Cambodia, published expert commentary for the Cambodia Tribunal Monitor on the Trial Chamber's decision, which found two international members of Nuon Chea's defence – Dutch lawyer Michiel Pestman and American lawyer Andrew Ianuzzi – guilty of misconduct and referred this misconduct to the bar associations in their respective home countries.

Heindel said members of all three defence teams in Case 002 had been referred to their home bar associations for “unethical behaviour”.

“Thus far, neither the home bar associations nor the Cambodian Bar have taken action, nor have the court warnings been followed by additional ECCC repercussions,” Heindel wrote. “Because the Nuon Chea's team trial strategy is premised on exposing government interference in the work of the Court – and proving its existence by being repeatedly forbidden to raise the topic – it will no doubt continue to test the Chamber's patience, making future sanctions likely.”

Heindel highlights the judges' unclear and seemingly inconsistent use of confidentiality rules for court filings, but nominates the accused counsel as responsible for the most “egregious breach” of confidentiality, with their publication of a confidential judicial order, implying some senior government officials hold key information to Case 003.

“One option would be to schedule time for the [Nuon Chea] team to raise [political] interference arguments, thereby undercutting its enduring need to prove that the government will never allow it.”

Ianuzzi told the Post he had not been contacted by his bar, but added that such complaints were a slow-moving process.