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Resignation ‘Reflects Responsibility’

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The national co-investigating judge of a U.N.-backed war tribunal in Cambodia said Monday that his international counterpart’s recent resignation amounts to an admission of his misconduct and misunderstanding of the Cambodian judicial process.

National co-investigating judge You Bunleng of the Extraordinary Chambers of the Court of Cambodia (ECCC), as the tribunal is formally known, “welcomed” the resignation of Swiss judge Laurent Kasper-Ansermet, who had announced his intention to leave the court earlier this month.

“The National Co-Investigating Judge is convinced that the resignation reflects his taking responsibility for his professional as well as his procedural misconduct done thus far, despite repeated warnings by the National Co-Investigating Judge,” You Bunleng said in a statement.

He claimed that Kasper-Ansermet had “repeatedly issued public statements in violation of Rule 56” in connection to trying two additional cases against members of the former Khmer Rouge regime, during which an estimated two million Cambodians died. Those cases are still under formal investigation by the court.

Kasper-Ansermet resigned two weeks ago, saying he had been repeatedly “blocked” by You Bunleng from pursuing a third and fourth case. His marks the second resignation by an international co-prosecuting judge since German Siegfried Blunk stepped down in October blaming government interference.

He had been appointed by the U.N. General Secretary to replace Blunk as a reserve judge in the tribunal, but You Bunleng maintained that he was not eligible to proceed with casework because his selection had been vetoed by Cambodia’s highest judicial body, the Supreme Council of Magistracy.

‘No contest’

You Bunleng said that progress on cases 003 and 004 had “slowed down” since the departure of Blunk “because there has not been an official appointment of a new judge to replace him and undertake the ongoing procedures.”

And in response to claims that Bunleng had specifically moved to block his counterpart in all attempts to proceed with his duties, the national co-investigating judge said he had

“never contested with Judge Laurent Kasper-Ansermet on any procedural matters,” though he could not acknowledge the legal validity of any of those acts due to Kasper-Ansermet’s “reserve” status.

In January, the U.N. ruled that Kasper-Ansermet could proceed with his mandate to investigate cases at the tribunal, despite Cambodia’s decision to veto him, saying the Supreme Council of Magistracy’s approval was “not necessary.”

The Cambodian government defended its decision, saying that U.N. officials did not fully understand Cambodia’s rights according to the agreement under which the ECCC was formed and that the authority to appoint the judge ultimately lies with the country’s Supreme Council of Magistracy.

The council is headed by Cambodian King Norodom Sihamoni and determines all judicial appointments, transfers, promotions, suspensions, or disciplinary actions.

Mired in scandal

The ECCC has successfully tried one case against a former jail warden and a second case is underway involving the three top surviving members of the former regime.

But despite spending nearly U.S. \$150 million since it was established six years ago, the ECCC has handed down only one sentence and has been mired in allegations of corruption and interference.

The tribunal completed its first trial last month, jailing former Khmer Rouge prison chief Duch for life on appeal for overseeing the deaths of some 15,000 people.

A second trial involving the Khmer Rouge's four most-senior surviving leaders is under way. Many do not expect the third and fourth cases to proceed.

Cambodian Prime Minister Hun Sen, himself a former Khmer Rouge cadre, and other Cambodian officials have often expressed opposition to any further prosecutions in the Tribunal beyond the second trial.