



## **UN Defends Judge in Khmer Rouge Trial Row January 26, 2012**

A United Nations expert on Cambodia's Khmer Rouge trials says Cambodia is breaching the rules of the court by trying to block a Swiss judge who wants to investigate cases the government would rather see go away.

David Scheffer, special expert on UN assistance to the Khmer Rouge trials, met with Cambodian leaders including deputy Prime Minister Sok An.

After the meeting, David Scheffer and Sok An said they have "differing views on the interpretation of the ECCC Agreement" but say they "remain optimistic that the Court can achieve its mandate".

Separately Mr Scheffer told media that Swiss judge Laurent Kasper-Ansermet "has clear authority to fulfil his duties".

The court is currently investigating Case 2 which looks at three Khmer Rouge leaders, but it's Cases 3 and 4 that Mr Kasper-Ansermet would be investigating which involve another five suspects.

In the past, Cambodia's Prime Minister and other leaders have said cases 2 and 3 shouldn't go ahead despite many people wanting to see justice for the 1.7 million people who died under the Khmer Rouge in the 1970s.

The latest dispute centres on whether Cambodia's Supreme Council of the Magistracy has the power to reject the Swiss judge or only to approve appointments.

*Presenter: Liam Cochrane*

*Speaker: Lars Olsen, Legal Communications Officer at the Extraordinary Chambers in the Courts of Cambodia*

OLSEN: Well the agreement basically says that the Supreme Council of the Magistracy should appoint international judges after having received nominations from the UN Secretary General.

COCHRANE: If an organisation can appoint a particular person to a position, doesn't that imply that they can not appoint someone as well?

OLSEN: Well I guess this is what is the heart of the differing views between the United Nations and the Supreme Council of the Magistracy, and representing the court, which is

kind of in the middle of this I will just have to emphasise that the court has no saying in the interpretation of the agreement. This is solely a matter between the United Nations and the Cambodian government as parties to the agreement establishing the court.

COCHRANE: With the two sides; the United Nations and the Cambodian government leadership essentially agreeing to disagree over this interpretation of the accord, where does that leave the third and fourth case that is scheduled to go ahead?

OLSEN: Well it is obvious that as long as there is uncertainty about appointments over co-investigating judges and whether or not they can fulfil their duties, this has an effect on the efficiency of the investigation in these cases, because if you don't have an investigating judge who can be allowed to investigate, obviously there will be very limited progress.

COCHRANE: The court operates on a system whereby there are two judges; a UN appointed international judge and a Cambodian colleague. Can the international co-investigating judge begin investigations by himself, or does he need the cooperation of his Cambodian colleague?

OLSEN: Well the court has a very complex system in this regard. Normally actions require the consent of both judges. However it is also possible for the judges to make a formal disagreement, but when one judge goes ahead without the support of the other. So there are opportunities also for one judge to go ahead if he follows a disagreement procedure.

COCHRANE: Has that formal disagreement between lodged by Laurent Kasper-Ansermet?

OLSEN: At this point in time I don't have any information about that because right now the question has been what kind of authority does he have or does he need the appointment as a permanent judge or he can act as a reserve judge? That's kind of the issue up to now. So the disagreement issue would be a separate issue from that.

COCHRANE: So what we've been discussing relates to Cases 3 and 4, but coming back to Case 2, which is underway which centres on three senior Khmer Rouge leaders, what's the latest on the progress of that case?

OLSEN: Well we are now in the middle of the trial phase of Case 2. It started off with opening statements in November last year and then went on to the hearing of the evidence, which is the phase we are in right now. We have heard some testimony from the defendants, particular Nuon Chea. Now the court is hearing fact witnesses in that case. So it's basically in trial phase and we will expect that for at least a huge part of this year that this trial will go on.

COCHRANE: And when can we expect to start hearing verdicts on the second case?

OLSEN: Well that all depends on how many witnesses the trial chamber will call by the end of the day, and also of course depending various procedural actions from the other parties during the trial. But as I said this will take some time and we expect for at least most of this year there will be hearings in the court rooms. So it's not imminent that we will see the first verdicts in this case.