

Support unlikely for blocking tribunal indictments

Sok Khemara

September 2, 2009

Cambodian judges will be unlikely to find enough support from their international counterparts to block further indictments of Khmer Rouge leaders, observers and court officials say.

The question of more indictments has prompted Cambodian leaders like Prime Minister Hun Sen to warn of instability or war, a position echoed by Cambodian judges.

The Pre-Trial Chamber of the UN-backed court will have to decide on the indictments, which put the UN and Cambodian prosecutor at odds earlier this year.

“There are only three voices, all Cambodian judges, in support of no indictments, and two foreign judges supporting the indictment,” a tribunal observer said. “By law, if there is no super majority, or four out of five voices, the case will continue.”

Observers close to the trial in Cambodia and observing from the US say the issue of further indictments has been complicated by the government’s insistence that only five be prosecuted.

The former international prosecutor, Robert Petit, who resigned last month, proposed six more indictments earlier this year. The motion was blocked by his counterpart, Chea Leang, who echoed Hun Sen’s warnings.

It has taken seven months so far for the Pre-Trial Chamber to attend to the indictment question, and in recent weeks the judges of the chamber have been unable to resolve it.

If the indictments are moved past the prosecutors’ office, they will move to the investigating judges, where they could face further complications, observers said.

There is concern that the investigating judges will not take further action, such as arrests or investigation, as they may claim they are putting their priorities toward investigating Case No. 002, of four senior leaders currently in custody.

A tribunal expert in Cambodia said that a disagreement between the investigation judges, again decided on by the Pre-Trial Chamber, must by law be done publicly, not behind closed doors, as the current decision is. That will mean, at least, the names of the six will be public.