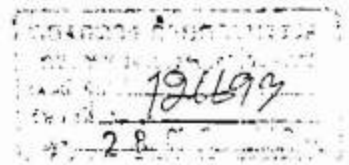


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No. 4330

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Royal Thai Government and has the honor to refer the Ministry to the attached papers from the Southern Bangkok Criminal Court delivered to the Embassy under cover of Note No. 0404/18332, dated August 18, 2009. The papers are a petition addressed to individual officials of the United States of America that were filed by a private person, Mr. Viktor Bout, requesting the exercise of criminal jurisdiction by the court over these officials. The matter is captioned as Criminal Litigation between Mr. Viktor Anayoljevich Bout, Plaintiff, and Mr. Derek S. Odney, Defendant No. 1; Mr. Robert Zachariasiewicz, Defendant No. 2; and Mr. Scott Hacker, Defendant No. 3.

The three defendants are Special Agents of the United States Drug Enforcement Administration who participated in a joint criminal investigation of Mr. Bout under the control and direction of the Royal Thai Police. The conduct of the individual officials was in collaboration with the activities of appropriate Thai authorities. This coordinated investigation has led to a criminal indictment against Mr. Bout in the United States for terrorism-related offenses and ongoing extradition proceedings in the Kingdom of Thailand.

Jurisdiction should not be asserted over the three United States officials in this case for the following reasons. First, it is inappropriate for a Thai court to entertain Mr. Bout's attempt to impose criminal liability against United States law enforcement officials for lawful activities that were: 1) within the scope of their

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official duties, and 2) in coordination with, approved by, and under the direction of the Royal Thai Police. Second, both Mr. Derek Odney and Mr. Scott Hacker are accredited to the U.S. Embassy as members of the administrative and technical staff. As such, they are immune from the criminal, civil, and administrative jurisdiction of Thailand in accordance with Articles 31(1) and 37(2) of the Vienna Convention on Diplomatic Relations. Third, service upon Mr. Robert Zachariasiewicz was improper because he is not present in Thailand and the U.S. Embassy is not authorized to act as his agent for purposes of accepting service of process on his behalf.

Accordingly, the Embassy requests that the Ministry inform the court of the absence of a basis to allow this petition to proceed.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Royal Kingdom of Thailand the assurances of its highest consideration.

Embassy of the United States of America,
Bangkok, October 28, 2009.

