



ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ  
Kingdom of Cambodia  
Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Royaume du Cambodge  
Nation Religion Roi

Extraordinary Chambers in the Courts of Cambodia  
Chambres extraordinaires au sein des Tribunaux cambodgiens

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត  
Office of the Co-Investigating Judges  
Bureau des co-juges d'instruction

Case File No: 004/07-09-2009-ECCC-OCIJ

<b>ឯកសារដើម</b>
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de recep. កក): ..... ០៧ ..... / ..... ១២ ..... / ..... ២០១៦ .....
ម៉ោង (Time/Heure) : ..... ១៤ : ៥០ .....
ស្តីទីទទួលបន្ទុកករណីរឿង / Case File Officer/L'agent chargé du dossier: ..... SANN RADA .....

Before: **The Co-Investigating Judges**  
Date: **7 December 2016**  
Language(s): **English [Original]**  
Classification: **CONFIDENTIAL**

**DECISION ON ICP'S REQUEST FOR INVESTIGATIVE ACTION  
REGARDING CASE 004 CRIME SITES AND RESPONSIBILITY  
OF AO AN**

**Distribution:**

**Co-Prosecutors**  
CHEA Leang  
Nicholas KOUMJIAN

**Civil Party Lawyers**  
CHET Vanly  
HONG Kimsuon  
KIM Mengkhy  
LOR Chunthy  
SAM Sokong  
SIN Soworn  
TY Srinna  
VEN Pov

Emmanuel JACOMY  
Martine JACQUIN  
Lyma NGUYEN  
Beini YE

**Ao An Defence**  
MOM Luch  
Richard ROGERS  
Göran SLUITER

**Yim Tith Defence**  
SO Mosseny  
Suzana TOMANOVIĆ

Linda BEHNKE  
Laure DESFORGES  
Isabelle DURAND



## I. PROCEDURAL HISTORY

1. Disagreements between the Co-Investigating Judges (“CIJs”) in this case were registered on 22 February 2013, 5 April 2013, and 22 January 2015.
2. On 15 June 2011, the International Co-Prosecutor (“ICP”) filed the *International Co-Prosecutor’s Request for Investigative Action Regarding Case 004 Crime Sites in Central Zone and Responsibility of Suspect Ta An* (“Request”).<sup>1</sup>
3. On 5 December 2012, my predecessor notified the Office of the Co-Prosecutors that the Request had been accepted, that a number of the specific requested investigative actions had already been completed, and that the Co-Prosecutors will be informed when all necessary action has been completed.<sup>2</sup>
4. On 25 August 2016, in the *Notice of Provisional Discontinuance Regarding Individual Allegations*, I informed the parties that I will not further investigate the allegations relating to crime sites in Sector 42 and Sector 43, but may resume the investigation if compelling circumstances present themselves.<sup>3</sup>
5. On 9 November 2016, I notified the parties of the details of the intended reduction in the scope of the judicial investigation pursuant to Internal Rule 66 *bis* (2).<sup>4</sup>

## II. SUBMISSIONS

6. In the Request, the ICP aims to draw the CIJs’ attention to specific parts of the Third Introductory Submission (“3IS”) which in his view require additional judicial investigation to establish the truth of the allegations in the 3IS.<sup>5</sup> The ICP submits that, at the date of filing the Request, the CIJs had only conducted 27 witness interviews, and placed only five site identification reports on the Case File.<sup>6</sup> According to the ICP, the CIJs had not conducted any investigation in relation to 8 of the 13 crime sites or events in the Central Zone, and had only performed a limited number of investigative actions in relation to the remaining five Central Zone crime sites or events.<sup>7</sup>
7. The ICP identifies three crime sites or events in the Central Zone which had been investigated in Case 002: Wat O Trau Kuon Security Centre; Genocide of Cham in Kampong Cham Province; and Wat Baray Chan Dek Security Centre.<sup>8</sup> For these, the ICP requests a limited number of discrete investigative actions, assuming that evidence from Case File 002 will be placed onto Case File 004.<sup>9</sup> Likewise, the ICP requests a limited investigation of specific matters in relation to two further crime sites in the Central Zone for which no judicial investigation had yet been performed: Wat Srange Security Centre and Wat Kandal Security

<sup>1</sup> Case File 004-D41, *International co-prosecutor’s request for Investigative action regarding Case 004 crime sites in central zone and responsibility of suspect Ta An*, 15 June 2011.

<sup>2</sup> Case File No. 004-D41/1, *International Co-Investigating Judge’s Response to the International Co-Prosecutors’ request for Investigative action regarding Case 004 crime sites in central zone and responsibility of suspect TA An*, 5 December 2012, (“Request”).

<sup>3</sup> Case File No. 004-D307/3, *Notice of Provisional Discontinuance Regarding Individual Allegations*, 25 August 2016, paras 13-14.

<sup>4</sup> Case File No. 004-D307/4, *Notification pursuant to internal rule 66 bis(2)*, 9 November 2016.

<sup>5</sup> Request, para. 2.

<sup>6</sup> Request, para. 3.

<sup>7</sup> Request, paras 3-4, 7.

<sup>8</sup> Request, para. 5.

<sup>9</sup> Request, paras 5, 17-18.



Centre.<sup>10</sup> Additionally, the ICP requests a complete investigation of the remaining three crime sites for which the CIJs had conducted no investigation: Kok Pring Execution Site; Chamkar Svay Chanty Security Centre; and Tuol Ta Phlong Prison and Execution Site.<sup>11</sup>

8. In relation to the crime sites and events for which the CIJs had performed some investigative action, the ICP requests a number of specific further investigative actions.<sup>12</sup> Those crime sites and events are: Anlong Chrey Dam worksite; Met Sop Security Centre; Phnom Pros Security Centre; Wat Batheay Security Centre; and the purge of the Central Zone.<sup>13</sup>
9. Finally, the ICP requests a number of specific investigative actions in relation to the individual responsibility of Ao An.<sup>14</sup>

### III. DISCUSSION

#### A. Standard for the assessment of investigative requests

10. The Pre-Trial Chamber previously stated that a party requesting investigative action “*must satisfy the two cumulative conditions [...] [n]amely, the request must:*

- (i) *identify the action to be taken or order to be made, as applicable, with sufficient precision (“the precision requirement”), and*
- (ii) *demonstrate in detail the reasons why the requested investigative action [...] is prima facie “relevant to ascertaining the truth” (“the prima facie relevance requirement”).*<sup>15</sup>

11. The precision requirement obliges the requesting party to be “*specific enough to give clear indications to the Co-Investigating Judges as to what they should search for*”.<sup>16</sup> Consequently, I am not required to grant general or speculative requests to look for exculpatory evidence.<sup>17</sup> Rather, the requesting party must point specifically towards the presence of the evidence that is sought.<sup>18</sup> For example, the PTC found that a request that does not clearly state the number of documents sought or their exact location within a collection of documents or archives fails to meet this test.<sup>19</sup>

<sup>10</sup> Request, paras 6, 15-16.

<sup>11</sup> Request, paras 7-8, 13-14.

<sup>12</sup> Request, para. 7.

<sup>13</sup> Request, para. 7, 9-12, 19.

<sup>14</sup> Request, para. 20.

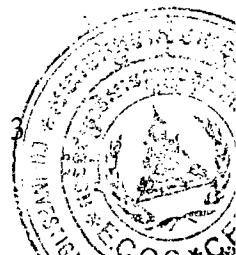
<sup>15</sup> Case File No. 002-D365/2/17, *Decision on Reconsideration of Co-Prosecutors’ Appeal Against the Co-Investigating Judges Order on Request to Place Additional Evidentiary Material on the Case File which Assists in Proving the Charged Persons’ Knowledge of the Crimes* (“Reconsideration Decision”), 27 September 2010, para. 47.

<sup>16</sup> Reconsideration Decision, para. 48.

<sup>17</sup> Reconsideration Decision, paras 48, 51.

<sup>18</sup> Case File No. 002-D100/9/2, *Decision on The Appeal Against the Co-Investigative Judges Order on Nuon Chea’s Second Request for Investigative Action*, 5 May 2010, para. 31; Case File No. 002-D164/4/13, *Decision on the Appeal from the Order on the Request to Seek Exculpatory Evidence in the Shared Material Drive*, 18 November 2009, paras 38-39; Case File No. 002-D273/3/5, *Decision on Appeal Against OCIJ Order on Nuon Chea’s Eighteenth Request for Investigative Action*, 10 June 2010, paras 19-20, 26, 29; Reconsideration Decision, paras 48, 73.

<sup>19</sup> Reconsideration Decision, para. 48.



12. The prima facie relevance requirement contains two sub-requirements. Firstly, the request must be “relevant to the scope of the investigation pursuant to the limitations and parameters set by the Introductory and Supplementary Submissions.”<sup>20</sup> Secondly, the request “must detail why the requested information is conducive to ascertaining the truth”.<sup>21</sup> This requires the requesting party to establish a prima facie nexus between the requested investigative action and a matter within the scope of the investigation.<sup>22</sup> Where the request concerns exculpatory evidence, the requesting party must demonstrate a prima facie reason that the investigative action may yield exculpatory evidence.<sup>23</sup>

### **B. Crime sites in Sector 42 and Sector 43**

13. Four of the crime sites that are the subject of the Request are situated in Sector 42 or Sector 43.<sup>24</sup> As I stated in another Decision in this case, and in accordance with the notice pursuant to Internal Rule 66 *bis* (2) mentioned above, I will not expend further resources investigating matters in Sectors 42 and 43 unless I consider them relevant to Ao An’s responsibility for crimes committed in Sector 41, or the remaining allegations of genocide of the Cham in Kampong Cham.<sup>25</sup> Accordingly, the requests for investigative action relating to Chamkar Svay Chanty Security Centre, Tuol Ta Phlong prison and execution site, Wat Kandal Security Centre, and Wat Baray Chan Dek are denied.

### **C. Kok Pring Execution Site**

#### *i. Site identification report*

14. The OCIJ has produced a site identification report for the alleged Kok Pring execution site.<sup>26</sup>

#### *ii. Conduct interviews with local residents including Chuong Srim, Sann Son, and Khlouk Lim*

15. OCIJ investigators have interviewed Chuong Srim, Sann Son, Khlouk Lim, and five other local residents.<sup>27</sup>

<sup>20</sup> Reconsideration Decision, para. 49.

<sup>21</sup> Reconsideration Decision, para. 50.

<sup>22</sup> Reconsideration Decision, paras 50-51.

<sup>23</sup> Case File No. 002-D353/2/3, *Decision on the Ieng Thirith Defence Appeal Against ‘Order on Requests for Investigative Action by the Defence for Ieng Thirith’ of 15 March 2010*, 14 June 2010, para. 47.

<sup>24</sup> Request, paras 13-14, 16-17.

<sup>25</sup> Case File 004-D276/1, *Decision on AO An’s Sixth Request for Investigative Action*, 12 October 2016, paras 33, 43, 46, 50, 51.

<sup>26</sup> Case File No. 004-D107/16, *Report of the Execution of Rogatory Letter, dated 28 February 2012: Site Identification Report*, 28 February 2012.

<sup>27</sup> Case File No. 004-D107/10, *Written Record of Interview of CHUONG Srim*, 23 February 2012; Case File No. 004-D107/2, *Written Record of Interview of SANN Son*, 16 February 2012; Case File No. 004-D80, *Written Record of Interview of witness KLOUK Lim*, 26 August 2011; Case File No. 004-D117/52, *Written Record of Interview of Civil Party BUM Ser*, 27 May 2014; Case File No. 004-D117/53, *Written Record of Interview of Civil Party SUN Chean*, 28 May 2014; Case File No. 004-D117/68, *Written Record of Interview of Civil Party VA Limhun*, 15 September 2014; Case File No. 004-D219/17, *Written Record of Interview of Civil Party PIN Dan*, 16 September 2014; Case File No. 004-D107/3, *Written Record of Interview of KAK Sroeu*n, 16 February 2012.



iii. *Conduct interviews with Prak Yut, Chhon Chhen, Comrade In, and any other former zone, sector district or commune cadre with relevant knowledge*

16. Since the filing of the Request, OCIJ investigators interviewed Prak Yut on multiple occasions.<sup>28</sup>
17. An OCIJ investigator attempted to conduct an interview with Chhon Chhen. On 20 August 2014, the Witness Expert Support Unit (“WESU”) reported that they believed this witness’s name is Thoang Chhen, that he was born on 5 October 1947, and is a resident of Kokor Commune in Kampong Cham Province.<sup>29</sup> The WESU had been informed that Thoang Chhen suffers from physical and verbal incapacities as a result of a stroke; he is no longer able to leave the family home and requires full-time care.<sup>30</sup> In light of this, I do not consider it an efficient use of OCIJ resources to attempt to obtain a Written Record of Interview (“WRI”) with this witness.
18. The OCIJ has identified Comrade In (alternate spelling Im) as Kien Lei. A WRI with this witness is on the Case File.<sup>31</sup>
19. OCIJ investigators also obtained further WRIs with witnesses Kak Sroeun, Men Nun, You Van, Nhim Kol, Pov Sarom, Prak Ny, and Pen Thol.<sup>32</sup>
- iv. *Confrontation between Prak Yut and witnesses who have confirmed her participation in or knowledge of crimes in Kampong Siem District and her direct reporting relationship to Ao An in Sector 41 during the 1977-78 time period, including Chin Sinal, Suon Kanil and Khloak Lim*
20. The purpose of organising a confrontation between witnesses during the judicial investigation is to resolve any material inconsistencies between their evidence.<sup>33</sup>
21. Since the filing of the Request, Prak Yut participated in six interviews as part of the Case 004 investigation.<sup>34</sup> Although Prak Yut acknowledged that she “*did not*

<sup>28</sup> Case File No. 004-D117/70, *Written Record of Interview of PRAK Yut Dated 28-05-2013*, 28 May 2013; Case File No. 004-D117/71, *Written Record of Interview of PRAK Yut Dated 19-06-2013*, 19 June 2013; Case File No. 004-D117/72, *Written Record of Interview of PRAK Yut Dated 21-06-2013*, 21 June 2013; Case File No. 004-D117/73, *Written Record of Interview of PRAK Yut Dated 7-10-2013*, 27 October 2013; Case File No. 004-D219/120, *Written Record of Interview of PRAK Yut*, 30 September 2014; Case File No. 004-D219/484, *Written Record of Interview witness PRAK Yut*, dated 21-08-2015, 21 August 2015.

<sup>29</sup> Case File No. 004-D219/31.3, *WESU Report On CHHON Chhen*, 20 August 2014.

<sup>30</sup> Case File No. 004-D219/31.3, *WESU Report On CHHON Chhen*, 20 August 2014.

<sup>31</sup> Case File No. 004-D107/12, *Written Record of Interview of KIEN Lei*, 14 March 2012.

<sup>32</sup> Case File No. 004-D107/3, *Written Record of Interview of KAK Sroeun*, 16 February 2012; Case No. 004-D117/29, *Written Record of Interview of MEN Nun*, 31 October 2015; Case File No. 004-D117/31, *Written Record of Interview of YOU Vann*, 11 November 2013; Case File No. 004-D117/32, *Written Record of Interview of NHEM Kol*, 12 November 2013; Case File No. 004-D117/33, *Written Record of Interview of POV Sarom*, 14 November 2013; Case File No. 004-D117/34, *Written Record of Interview of PRAK Ny*, 14 November 2013; Case File No. 004-D219/461, *Written Record of Interview witness PEN Thol*, 8 August 2015.

<sup>33</sup> See Article 211 of the Italian Code of Criminal Procedure, Article 102 of the French Code of Criminal Procedure, and paragraph 58 of the German Code of Criminal Procedure. See also Case File No. 004-D230, *Written Record of Confrontation*, 3 December 2012; Case File No. 004-D231, *Written Record of Confrontation*, 4 December 2012.

<sup>34</sup> Case File No. 004-D117/70, *Written Record of Interview of PRAK Yut Dated 28-05-2013*, 28 May 2013; Case File No. 004-D117/71, *Written Record of Interview of PRAK Yut Dated 19-06-2013*, 19 June 2013; Case File No. 004-D117/72, *Written Record of Interview of PRAK Yut Dated 21-06-2013*,



say everything [in her] previous interviews” which were recorded during the Case 002 investigation,<sup>35</sup> she cooperated with the investigators in her subsequent Case 004 interviews. In light of the answers Prak Yut gave in her subsequent interviews,<sup>36</sup> I am satisfied that the material inconsistencies identified by the ICP between her evidence and that of other witnesses have now been resolved. A confrontation is therefore no longer necessary.

#### D. Phnom Pros Security Centre

##### i. Identify and interview former detainees from the Phnom Pros Security Centre, including Vorng Sophany

22. Witness Vorng Sokun told an OCIJ investigator on 17 February 2012 that her sister Vorng Sophany was killed in a traffic accident three years prior.<sup>37</sup> There is no reason to doubt that Vorng Sokun was telling the truth.
23. The OCIJ has not been able to identify any other former detainees of the Phnom Pros Security Centre.

##### ii. Identify and interview former prison staff, including Phal (Orn Kim Eng)

24. The ICP identifies an individual named Phal as a former prison staff at Phnom Pros Security Centre and intimates that Phal is the ex-husband of OCIJ witness Vorng Sokun’s sister and a former soldier of Phnom Pros Chief Choeun, believed to be living in Kampong Thom in Praek Deum Chan Village.<sup>38</sup>
25. Vorng Sokun told the OCIJ that all of her siblings were arrested during the Khmer Rouge regime, and that only she and her sister, Vorng Sophany, survived.<sup>39</sup> Vorng Sokun also confirmed that Vorng Sophany was married to a disabled soldier named Phal, who worked at Phnom Pros.<sup>40</sup> As stated in paragraph 22 above, Vorng Sophany is deceased and as a result the OCIJ is unable to interview her.
26. The OCIJ has recorded two witness interviews with Orn Kim Eng.<sup>41</sup> He stated that his alias was Theng and he lives in Krala Commune in Kampong Cham Province.<sup>42</sup> He confirmed that he was married to Vorng Sophany and that he worked at Phnom Pros Security Centre.<sup>43</sup> He told the OCIJ that a person by the name Phal was the Zone Security Chairman.<sup>44</sup>

21 June 2013; Case File No. 004-D117/73, *Written Record of Interview of PRAK Yut Dated 7-10-2013*, 27 October 2013; Case File No. 004-D219/120, *Written Record of Interview of PRAK Yut*, 30 September 2014; Case File No. 004-D219/484, *Written Record of Interview witness PRAK Yut dated 21-08-2015*, 21 August 2015.

<sup>35</sup> Case File No. 004-D117/70, *Written Record of Interview of PRAK Yut*, 28 May 2013, A47.

<sup>36</sup> For example: Case File No. 004-D117/70, *Written Record of Interview of PRAK Yut*, 28 May 2013, A25-A29, A34-A37, A39, A43-A45.

<sup>37</sup> Case File No. 004-D107/4, *Written Record of Interview of VORNG Sokun*, 17 February 2012, A15.

<sup>38</sup> Request, para. 9(ii), fn 18.

<sup>39</sup> Case File No. 004-D3/19, *Written Record of Interview of VORNG Sokun*, 2 December 2010, A6; Case File No. 004-D107/4, *Written Record of Interview of VORNG Sokun*, 17 February 2012, A15.

<sup>40</sup> Case File No. 004-D3/19, *Written Record of Interview of VORNG Sokun*, 2 December 2010, A8.

<sup>41</sup> Case File No. 004-D107/5, *Written Record of Interview of ORN Kim Eng*, 18 February 2012; Case File No. 004-D117/66, *Written Record of Interview of ORN Kim Eng*, 27 August 2014.

<sup>42</sup> Case File No. 004-D107/5, *Written Record of Interview of ORN Kim Eng*, 18 February 2012, p. 2.

<sup>43</sup> Case File No. 004-D107/5, *Written Record of Interview of ORN Kim Eng*, 18 February 2012, A2-A3, A14.

<sup>44</sup> Case File No. 004-D117/66, *Written Record of Interview of ORN Kim Eng*, 27 August 2014, A11, A15.



27. The OCIJ has not been able to identify any other former prison staff of the Phnom Pros Security Centre.

iii. *Interview Choeun's relatives in Speu Kaet village to confirm he is deceased and to determine if they are aware of any other surviving cadre from the site*

28. Witness Vorng Sokun told the OCIJ that Choeun committed suicide after his capture by the Vietnamese in 1979 and that she had heard this from her uncle, who in turn had heard this from other people.<sup>45</sup> This version of events is corroborated by witnesses Orn Kim Eng and Mut Sophon.<sup>46</sup> Given the similarities in the accounts from these three witnesses, and the length of time since Choeun's reported death, I am convinced that Choeun is deceased. Therefore, I find it unnecessary to interview Choeun's relatives for further confirmation.

iv. *Interview Ke Pich Vannak (the son of former Zone Secretary KE Pauk)*

29. Ke Pich Vannak is deceased.<sup>47</sup> A copy of his death certificate is annexed to this Decision.<sup>48</sup>

v. *Identify and interview additional witnesses regarding the mass execution at Phnom Pros described by Ke Pich Vannak*

30. An OCIJ investigator interviewed Ke Pich Vannak during the investigation in Case 002.<sup>49</sup> He told the investigator that he saw ten military trucks fully loaded with people going towards Phnom Pros Phnom Srey.<sup>50</sup> There, he saw soldiers ordering the people to undress at gun point.<sup>51</sup> He later overheard an official named Ta Vey Reap tell his (Ke Pich Vannak's) father that those people were brought there to be "mashed", and that "brother An" gave the order.<sup>52</sup>

31. OCIJ investigators interviewed witnesses Orn Kim Eng and Vorng Sokun about the mass execution of prisoners at Phnom Pros.<sup>53</sup> Over the course of the investigation, the OCIJ has also interviewed numerous witnesses and civil parties regarding the alleged detention and execution of prisoners at Phnom Pros.<sup>54</sup> I do

<sup>45</sup>Case File No. 004-D3/19, *Written Record of Interview of VORNG Sokun*, 2 December 2010, A9-A10.

<sup>46</sup> Case File No. 004-D107/5, *Written Record of Interview of ORN Kim Eng*, 18 February 2012, A25; Case File No. 004-D219/323, *Written Record of Interview witness MUT Sophon*, 15 May 2015, A14.

<sup>47</sup> Case File No. 002-E144/1/1.1, *Confirmation of Death certificate of Ke Pich Vannak*, 21 December 2011.

<sup>48</sup> Case File No. 004-D41/2.1: *Annex A: Death Certificate of Ke Pich Vannak*, 21 December 2011.

<sup>49</sup> Case File No. 004-D6.1.379, *Written Record of Interview of KÈ Pich Vannak*, 4 June 2009.

<sup>50</sup> Case File No. 004-D6.1.379, *Written Record of Interview of KÈ Pich Vannak*, 4 June 2009, ERN 00346157.

<sup>51</sup> Case File No. 004-D6.1.379, *Written Record of Interview of KÈ Pich Vannak*, 4 June 2009, ERN 00346157.

<sup>52</sup> Case File No. 004-D6.1.379, *Written Record of Interview of KÈ Pich Vannak*, 4 June 2009, ERN 00346157.

<sup>53</sup> Case File No. 004-D107/5, *Written Record of Interview of ORN Kim Eng*, 18 February 2012, A6-A7, A16-A19; Case File No. 004-D117/66, *Written Record of Interview of ORN Kim Eng*, 27 August 2014, A3, A6-A9, A14; Case File No. 004-D107/4, *Written Record of Interview of VORNG Sokun*, 17 February 2012, A16-A20; Case File No. 004-D3/19, *Written Record of Interview of VORNG Sokun*, 2 December 2010, A7.

<sup>54</sup> For example: Case File No. 004-D107/8, *Written Record of Interview of NHIM Kol*, Dated '20-02-2012, 20 February 2012, ERN 00787219- ERN 00787220; Case File No. 004-D117/20, *Written record of witness interview of LIM Seng*, 5 March 2013, A17; Case File No. 004-D117/31, *Written Record of Interview of YOU Vann*, 11 November 2013, A23; Case File No. 004-D219/138, *Written*



not consider it necessary to conduct any further interviews regarding the alleged mass execution of prisoners at Phnom Pros.

vi. *Identify and interview witnesses in the Phlov Keng area regarding the acts of torture by Kampong Siem Deputy Secretary Sy that were described by Ke Pich Vannak*

32. In his interview with the OCIJ investigator, Ke Pich Vannak testified that he personally saw Sy torture people.<sup>55</sup> He said Sy used to force people to pull an ox cart because he became angry when they whipped the cows.<sup>56</sup> He also told the OCIJ investigator that people in the area of Phlov Keng Phnom Pros Phnom Srey in Kampong Siem District could provide more information about Sy.<sup>57</sup>

33. The evidence on the Case File indicates that Sy (alternate spelling, Si) was a district level cadre in Kampong Siem District.<sup>58</sup> Ke Pich Vannak's evidence suggests that this is where the alleged acts of torture occurred.<sup>59</sup> While the Phnom Pros execution site is located in this district, there is no apparent link between the purported acts of torture described by Ke Pich Vannak and the Phnom Pros execution site, nor any other crime site or event of which the CIJs are seized. This request is therefore denied.

vii. *Interview Roath Song and identify and interview any other survivors or witnesses from Tuek Nuem village*

34. According to Niv Sun, approximately 15 families from his village were picked up in trucks from Wat Ta Meak and taken to Phnom Pros Phnom Srey to be killed.<sup>60</sup> Niv Sun later explained to an OCIJ investigator that he heard about this incident

---

*Record of Interview Witness YOU Vann*, 8 January 2015, A113; Case File No. 004-D117/37, *Written Record of Interview of Civil Party LENG Ra*, 23 April 2014, A8, A20, A22; Case File No. 004-D117/38, *Written Record of Interview of Civil Party KRUCH Kim*, 24 April 2014, A5; Case File No. 004-D219/178, *Written Record of Interview Witness KUCH Ra*, 5 February 2015, A13-A14; Case File No. 004-D219/217, *Written Record of Interview of Civil Party CHHEN Ham*, 11 March 2015, A90-A102, A107; Case File No. 004-D219/293, *Written Record of Interview of Civil Party CHEAM Pao*, 4 May 2015, A10; Case File No. 004-D219/323, *Written Record of Interview witness MUT Sophon*, 15 May 2015, A11-A16; Case File No. 004-D219/460, *Written Record of Interview witness SAT Pheap*, dated 07-08-2015, 7 August 2015, A11, A15; Case File No. 004-D219/543, *Written Record of Interview witness NAM Monn*, 7 October 2015, A7-A24; Case File No. 004-D219/772, *Written Record of Interview of SAT Sim*, 31 May 2016, A56-A66.

<sup>55</sup> Case File No. 004-D6.1.379, *Written Record of Interview of KÈ Pich Vannak*, 4 June 2009, ERN 00346152.

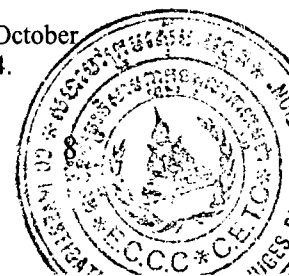
<sup>56</sup> Case File No. 004-D6.1.379, *Written Record of Interview of KÈ Pich Vannak*, 4 June 2009, ERN 00346152.

<sup>57</sup> Case File No. 004-D6.1.379, *Written Record of Interview of KÈ Pich Vannak*, 4 June 2009, ERN 00346152.

<sup>58</sup> Case File No. 004-D117/32, *Written Record of Interview of NHEM Kol*, 12 November 2013, A8; Case File No. 004-D117/31, *Written Record of Interview of YOU Vann*, 11 November 2013, A9; Case File No. 004-D219/26, *Written Record of Interview of PRAK Ny Dated 13-10-2014*, 13 October 2014, A16, 19; Case File No. 004-D219/712, *Written Record of Interview witness SOK Horn*, 29 February 2016, A17; Case File No. 004-D117/73, *Written Record of Interview of PRAK Yut Dated 27-10-2013*, 27 October 2013, A10; Case File No. 004-D117/50, *Written Record of Interview of IM Pon*, 23 May 2014, A28.

<sup>59</sup> Case File No. 004-D6.1.379, *Written Record of Interview of KÈ Pich Vannak*, 4 June 2009, ERN 00346152.

<sup>60</sup> Case File No. 004-D3/10, *Written Record of Interview of NIV Sun dated 19-10-2010*, 19 October 2010, A11; Case File No. 004-D1.3.11.35, *Interview of NIV Sun*, 1 August 2008, ERN 00210524.





from a survivor named Roath Song.<sup>61</sup> The WESU attempted to locate Roath Song, and was informed by his wife and daughter that he died on 19 October 2012.<sup>62</sup> The respective report from the WESU shows a photo of his death certificate.<sup>63</sup>

35. The OCIJ has not interviewed any witnesses from Tuek Nuem Village, located in Chrey Vien Commune, but the OCIJ has interviewed other witnesses regarding the transfer of prisoners from Wat Ta Meak to Phnom Pros.<sup>64</sup> Investigators have conducted multiple missions to Chrey Vien Commune as part of the investigation into the alleged crime site at Wat Ta Meak,<sup>65</sup> and have conducted interviews with witnesses from the area surrounding Tuek Nuem village.<sup>66</sup>
36. In light of these investigative steps, I do not consider it necessary to identify and interview any witnesses from Tuek Nuem village regarding the alleged detention and execution of prisoners at Phnom Pros.

*viii. Investigate whether the location of the Kampong Siem District Office during the DK period was near Phnom Pros*

37. The evidence collected during the course of the investigation indicates that the Kampong Siem District office is located in Angkuonh Dei Village, Krala Commune.<sup>67</sup> The site identification report for the Phnom Pros site indicates that the alleged prison and execution site was also located in Krala Village, Ampil Commune.<sup>68</sup>

<sup>61</sup> Case File No. 004-D3/17, *Written Record of Interview of NIV Sun, dated 30-11-2010*, 30 November 2010, A1-A2.

<sup>62</sup> Case File No. 004-D117/61.1, *WESU Report on Death Of ROATH Song*, 21 July 2014.

<sup>63</sup> Case File No. 004-D117/61.1, *WESU Report on Death Of ROATH Song*, 21 July 2014.

<sup>64</sup> Case File No. 004-D219/855, *Written Record of Interview witness NHEM Chen*, 21 October 2016; Case File No. 004-D219/226, *Written Record of Interview of Civil Party PENH Va*, 11 March 2015, A6-A7; Case File No. 004-D219/498, *Written Record of Interview of Civil Party Applicant PENH Va*, 7 September 2015, A7, A10; Case File No. 004-D219/620, *Written Record of Interview witness PALL Lay*, 8 December 2015, A38; Case File No. 004-D219/621, *Written Record of Interview witness PRAK Run*, 10 December 2015, Q17, A28-A30.

<sup>65</sup> Case File No. 004-D219/501, *Written Record of Investigation Action*, 11 September 2015; Case File No. 004-D219/584, *Site Identification Report*, 14 September 2015; Case File No. 004-D219/619, *Written Record of Investigation Action*, 30 November 2015; Case File No. 004-D219/641, *Written Record of Investigation Action*, 14 December 2015; Case File No. 004-D642, *Written Record of Investigation Action*, 12 December 2015.

<sup>66</sup> Case File No. D219/542, *Written Record of Interview witness NUT Kimnang*, 6 October 2015, A30, A34; Case File No. 004-D219/460, *Written Record of Interview witness SAT Pheap, dated 07-08-2015*, 7 August 2015, A11.

<sup>67</sup> Case File No. 004-D1.3.11.13, *Interview of CHUONG Srim*, 4 August 2008, ERN 00210447; Case File No. 004-D117/31, *Written Record of Interview of YOU Vann*, 11 November 2013, A13; Case File No. 004-D117/32, *Written Record of Interview of NHEM Kol*, 12 November 2013, A9; Case File No. 004-D117/24, *Written Record of witness interview - POV Sarom*, 7 August 2013, A16; Case File No. 004-D117/44, *Written Record of Interview of Civil Party NOV Hoeun*, 8 May 2014, ERN 01034906, A5-A6; Case File No. 004-D107/2, *Written Record of Interview of SANN Son*, 16 February 2012, A4; Case File No. 004-D219/472, *Written Record of Interview of Civil Party Applicant SUM Chanythol*, 24 August 2015, A126-A130.

<sup>68</sup> Case File No. 004-D3/23, *Report of the Execution of Rogatory Letter, dated 01 December 2010: Site Identification Report*, 1 December 2010.



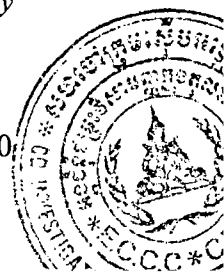
- ix. *Identify and interview witnesses from the area of the Phnom Pros site in Angkuonh Dei village, Krola commune (at the current location of the Kosma Neary Roat Sewing Training Centre) regarding Prak Yut and her conduct as District Secretary*
38. OCIJ investigators have identified several witnesses from Kampong Siem District and interviewed them regarding Prak Yut and her conduct as Secretary of Kampong Siem District.<sup>69</sup>
- x. *Determine whether Phnom Pros was a district, sector, or zone security centre.*
39. The OCIJ has investigated the operation of the site allegedly used as a security centre at Phnom Pros.<sup>70</sup> Findings on what administrative level directly oversaw it will be made in the Closing Order.
- xi. *Interview Prak Yut regarding the Phnom Pros Security Centre and the role of district, sector, zone, and party Centre leaders in the arrest, interrogation, and execution of purported enemies at this site*
40. OCIJ investigators have interviewed Prak Yut and asked her about the matters raised by the ICP.<sup>71</sup>
- xii. *Confrontation of Prak Yut*
41. The ICP submits that Prak Yut “(a) admits that there was a district security centre but claims that she did not allow anyone to be sent there and (b) claims to have forgotten the name of the Sector 41 Secretary to whom she reported”.<sup>72</sup> The ICP contends that Prak Yut should be confronted by witnesses who identify Ao An as Sector Secretary, can confirm that she had contact with Ao An, and testify that

<sup>69</sup> Case File No. 004-D117/24, *Written Record of witness interview - POV Sarom*, 7 August 2013, A26-A28; Case File No. 004-D117/33, *Written Record of Interview of POV Sarom*, 14 November 2013, A16; Case File No. 004-D219/284, *Written Record of Interview witness POV Sarom*, 9 April 2015, A48, A134, A153; Case File No. 004-D107/7, *Written Record of Interview of NHIM Kol, Dated '19-02-2012*, 19 February 2012, ERN 00787214-ERN 00787216; Case File No. 004-D107/8, *Written Record of Interview of NHIM Kol, Dated '20-02-2012*, 20 February 2012, ERN 00787219-ERN 00787221; Case File No. 004-D219/171, *Written Record of Interview of Civil Party NHIM Kol*, 11 February 2015, A12, A14, A22, A29-A31; A36, A41, A44; Case File No. 004-D107/4, *Written Record of Interview of VORNG Sokun*, 17 February 2012, A2, A16, A23-A24; Case File No. 004-D107/5, *Written Record of Interview of ORN Kim Eng*, 18 February 2012, A5, A20-A22; Case File No. 004-D117/66, *Written Record of Interview of ORN Kim Eng*, 27 August 2014, A12, A14; Case File No. 004-D117/28, *Written Record of Interview of KEO Voeun*, 26 October 2013, A4-A7, A11-A17; Case File No. 004-D219/191, *Written Record of Interview Witness KEO Voeun*, 19 February 2015, A2, A10, A15, A41-A43, A46, A52-A55; Case File No. 004-D117/29, *Written Record of Interview of MEN Nun*, 31 October 2013, A11-A12.

<sup>70</sup> Case File No. 004-D107/5, *Written Record of Interview of ORN Kim Eng*, 18 February 2012, A2, A6-A7, A21; Case File No. 004-D219/377, *Written Record of Interview of MORN Mot*, 24 May 2015, A8-A9; Case File No. 004-D117/66, *Written Record of Interview of ORN Kim Eng*, 27 August 2014, A6-A8.

<sup>71</sup> Case File No. 004-D117/71, *Written Record of Interview of PRAK Yut Dated 19-06-2013*, 19 June 2013, A63-A64; Case File No. 004-D219/120, *Written Record of Interview of PRAK Yut*, 30 September 2014, A78-A82; Case File No. 004-D6.1.730, *Written Record of Interview of PRAK Yut dated 21 July 2009*, 21 July 2009, ERN 00364083.

<sup>72</sup> Request, para. 9(viii).



persons were arrested and executed at the Phnom Pros Security Centre during the time Prak Yut was Secretary of Kampong Siem District.<sup>73</sup>

42. As mentioned above, the purpose of organising a confrontation between witnesses during the judicial investigation is to resolve any material inconsistencies between their evidence.<sup>74</sup> Since the ICP filed the Request, Prak Yut has participated in six interviews.<sup>75</sup> In light of the answers Prak Yut gave in her subsequent interviews,<sup>76</sup> I am satisfied that the material inconsistencies identified by the ICP between her evidence and that of other witnesses have now been resolved. A confrontation is therefore no longer necessary.

*xiii. Question Prak Yut about meeting her predecessor El Toem (alias Suy)*

43. The ICP also requests that Prak Yut be questioned about her previous evidence that she met her predecessor on arrival in Kampong Siem District in March 1977, given that S-21 records indicate that the former District Secretary, whose name was El Toem alias Suy, entered S-21 on 26 February 1977. An OCIJ investigator questioned Prak Yut about this on two occasions.<sup>77</sup>

*xiv. Identify and interview witnesses with knowledge of El Toem alias Suy*

44. The OCIJ has questioned five witnesses regarding Prak Yut's predecessor in Kampong Siem District,<sup>78</sup> but most did not remember who the previous secretary was.<sup>79</sup> Only one witness told the OCIJ that he remembered the previous Secretary of Kampong Siem District.<sup>80</sup> According to this witness, an individual named Soeun was in charge of the District, but he disappeared after Prak Yut arrived in Kampong Siem.<sup>81</sup>

<sup>73</sup> Request, para. 9(viii).

<sup>74</sup> *Supra*, para. 20.

<sup>75</sup> Case File No. 004-D117/71, *Written Record of Interview of PRAK Yut Dated 19-06-2013*, 19 June 2013; Case File No. 004-D219/120, *Written Record of Interview of PRAK Yut*, 30 September 2014; Case File No. 004-D219/484, *Written Record of Interview witness PRAK Yut, dated 21-08-2015*, 21 August 2015; Case No. 004-D117/72, *Written Record of Interview of PRAK Yut Dated 21-06-2013*, 21 June 2013; Case File No. 004-D117/70, *Written Record of Interview of PRAK Yut Dated 28-05-2013*, 28 May 2013; Case File No. 004-D117/73, *Written Record of Interview of PRAK Yut Dated 27-10-2013*, 27 October 2013.

<sup>76</sup> For example: Case File No. 004-D219/120, *Written Record of Interview of PRAK Yut*, 30 September 2014, A1-A14, A25-A36; Case File No. 004-D219/120, *Written Record of Interview of PRAK Yut*, 30 September 2014, A18-A24, A26-A32, A41-A44, A50-A54, A62-A64, A68, A76, A82, A88.

<sup>77</sup> Case File No. 004-D117/71, *Written Record of Interview of PRAK Yut Dated 19-06-2013*, 19 June 2013, A69; Case File No. 004-D219/120, *Written Record of Interview of PRAK Yut*, 30 September 2014, A39-A40.

<sup>78</sup> Case File No. 004-D117/24, *Written Record of witness interview - POV Sarom*, 7 August 2013, A13; Case File No. 004-D117/27, *Written Record of Witness Interview - DEUR Raun*, 26 September 2013, A4; Case File No. 004-D117/31, *Written Record of Interview of YOU Vann*, 11 November 2013, A14; Case File No. 004-D219/191, *Written Record of Interview Witness KEO Voeun*, 19 February 2015, A29; Case File No. 004-D117/32, *Written Record of Interview of NHEM Kol*, 12 November 2013, A4.

<sup>79</sup> Case File No. 004-D117/24, *Written Record of witness interview - POV Sarom*, 7 August 2013, A13; Case File No. 004-D117/27, *Written Record of Witness Interview - DEUR Raun*, 26 September 2013, A4; Case File No. 004-D117/31, *Written Record of Interview of YOU Vann*, 11 November 2013, A14; Case File No. 004-D219/191, *Written Record of Interview Witness KEO Voeun*, 19 February 2015, A29.

<sup>80</sup> Case File No. 004-D117/32, *Written Record of Interview of NHEM Kol*, 12 November 2013, A4.

<sup>81</sup> Case File No. 004-D117/32, *Written Record of Interview of NHEM Kol*, 12 November 2013, A5.



### E. Met Sop Security Centre

45. As I stated in another decision in this case, I consider the crime base investigation into the Met Sop Security Centre completed.<sup>82</sup> The specific investigative actions taken in accordance with the Request are detailed below. I do not intend to perform any further investigative actions in relation to the Met Sop Security Centre.

*i. Identify and interview former detainees from the Met Sop Security Centre in Kor Commune*

46. The OCIJ has conducted interviews with two witnesses and one civil party who are former detainees of the Met Sop Security Centre, although two of them were detained prior to the period under investigation.<sup>83</sup>

*ii. Interview Hun Chan Thol*

47. An interview with Hun Chan Thol is recorded in a report by historian Henri Locard.<sup>84</sup> She was apparently detained at a security centre in Kroch Kor, Chamkar Leu District, but was released in 1975.<sup>85</sup>

48. An OCIJ investigator met Hun Chan Thol but did not record an interview because this person was not able to provide relevant evidence.<sup>86</sup>

*iii. Interview Touch Rim*

49. Touch Rim is named as a potential witness in a site identification report of the Met Sop Security Centre.<sup>87</sup> An OCIJ investigator met with Touch Rim, but decided not to interview her as she was detained at Met Sop in 1976, which is outside the temporal scope of the investigation.<sup>88</sup>

*iv. Identify and interview former cadres from the security office, including prison chief Ngov, regarding the arrest, detention, interrogation, torture, and execution of prisoners and the responsibility of CPK sector and zone leaders for such matters*

50. The OCIJ has conducted three interviews with the former chief of the Met Sop Security Centre, Chom Vong (alias Youk Ngov or Nhov).<sup>89</sup> The OCIJ has been

<sup>82</sup>Case File No. 004-D188/1/1, *Decision on AO An's Amended Second Request for Investigative Action*, 7 September 2016, para. 22.

<sup>83</sup> Case File No. 004-D3/13, *Written Record of Interview of KUNG Ting*, 20 October 2010, A1-A2; Case File No. D219/59, *Written Record of Interview of Civil Party MOM Sroeurng*, 11 November 2014; Case File No. 004-D219/459, *Written Record of Interview witness YOU Oeurn*, 6 August 2015, A2-A3.

<sup>84</sup> Case File No. 004-D1.3.11.16, Annex B 0010: Henri LOCARD, "Report: Kampong Cham: West Bank of the Mekong (Old North Region)", 2007, 31 May 2007, pp. 14-15, ERN 00208398-00208399.

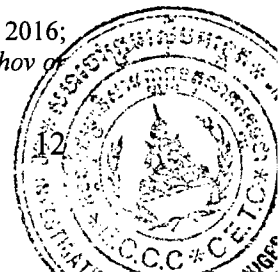
<sup>85</sup> Case File No. 004-D1.3.11.16, Annex B 0010: Henri LOCARD, "Report: Kampong Cham: West Bank of the Mekong (Old North Region)", 2007, 31 May 2007, pp. 14, ERN 00208398.

<sup>86</sup> Case File No. 004-D117/74, [Corrected 1] *Rogatory Letter Completion Report*, 11 December 2014, ERN 01047171.

<sup>87</sup> Case File No. 004-D3/21, *Report of the Execution of Rogatory Letter, dated 29 November 2010 : Site Identification Report*, 29 November 2010, p. 8, ERN 00637347.

<sup>88</sup> Case File No. 004-D3/21, *Report of the Execution of Rogatory Letter, dated 29 November 2010 : Site Identification Report*, 29 November 2010, ERN 00637347; Case File No. 004-D117/74, [Corrected 1] *Rogatory Letter Completion Report*, 11 December 2014, ERN 01047171.

<sup>89</sup> Case File No. 004-D219/851, *Written Record of Interview witness CHOM Vong*, 21 October 2016; Case File No. 004-D117/56, *Written Record of Interview of Witness CHOM Vong alias YOUK Nhov of*



unable to identify any additional surviving guards from the Met Sop Security Centre.

v. *Interview Koem Lot*

51. A summary of an interview with Koem Lot dated 22 March 1993 appears in a report by historian Henri Locard.<sup>90</sup> The report records that she lived near the prison at Met Sop and saw the arrival of new detainees and the burial of corpses behind the prison.<sup>91</sup> While Koem Lot may be able to give relevant evidence, I do not consider it necessary to conduct a judicial interview with her. As stated above, I consider the crime base investigation into the Met Sop Security Centre completed, and on the basis of the interview recorded in the Henri Locard report I am unconvinced that there are any *prima facie* reasons that Koem Lot may be able to give exculpatory evidence.

vi. *Interview Pao Li*

52. An investigator of the Office of the Co-Prosecutors (“OCP”) interviewed Pao Li on 17 November 2006.<sup>92</sup> In the OCP statement, Pao Li describes the sector security office outside Krauch Village, where many were executed because they were accused of being traitors or were too malnourished to work.<sup>93</sup> For the same reasons outlined above with respect to Koem Lot,<sup>94</sup> I do not consider it necessary to conduct a judicial interview with Pao Li.

vii. *Interview Soeng Leum*

53. The OCIJ interviewed Soeng Leum on two occasions.<sup>95</sup>

viii. *Identify and interview cadres who worked at the Sector 41 office in Prey Totueng Village, Chhrey Vien Commune, Prey Chhor District*

54. OCIJ investigators have identified and interviewed seven witnesses who worked at or around the Sector 41 office in Prey Toteung village.<sup>96</sup>

---

Ngov, 19 November 2014; Case File No. 004-D219/442, *Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov*, 3 August 2015.

<sup>90</sup> Case File No. 004-D1.3.11.16, *Annex B 0010: Henri LOCARD, "Report: Kampong Cham: West Bank of the Mekong (Old North Region), 2007*, 31 May 2007, ERN 00208393.

<sup>91</sup> *Ibid.*

<sup>92</sup> Case File No. 004-D1.3.11.38, *OCP Interview of PAO Li*, 17 November 2006.

<sup>93</sup> Case File No. 004-D1.3.11.38, *OCP Interview of PAO Li*, 17 November 2006, p. 1.

<sup>94</sup> *Supra*, para. 51.

<sup>95</sup> Case File No. 004-D95, *Written Record of Interview of witness SOEUNG Lim*, 16 September 2011; Case File No. 004-D117/54, *Written Record of Interview of SOEUNG Lim*, 29 May 2014.

<sup>96</sup> Case File No. 004-D219/315, *Written Record of Interview witness SAT Pheap*, 18 May 2015, A1, A5; Case File No. 004-D219/435, *Written Record of Interview witness TOUCH Chamroeun*, 30 July 2015, A2; Case File No. 004-D117/56, *Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov*, 19 November 2014, A20; Case File No. 004-D219/442, *Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov*, 3 August 2015, A17; Case File No. 004-D219/541, *Written Record of Interview witness KIM Thoeurn*, 5 October 2015 A7-A8; Case File No. 004-D219/582, *Written Record of Interview witness TOY Meach*, 2 September 2015, A5-A7; Case File No. 004-D117/50, *Written Record of Interview of IM Pon*, 23 May 2014, A10; Case File No. 004-D219/731, *Written Record of Interview witness NHEM Chen, dated 15/03/2016*, 15 March 2016, A1-A3; Case File No. 004-D219/732, *Written Record of Interview witness NHEM Chen, dated 17/03/2016*, 17 March 2016



## F. Anlong Chrey Dam

- i. *Identify and interview former workers, group chiefs, and supervisors from the worksite who can testify regarding the visits and speeches of sector leaders*
55. OCIJ investigators have recorded statements with six former workers from the Anlong Chrey Dam construction site.<sup>97</sup> Five of these witnesses were able to give evidence regarding the visits or speeches of Ao An and other leaders.<sup>98</sup>
- ii. *Identify and interview witnesses, including Kim Sam At, regarding the Tuol Kok Khou execution site at the Sector 41 dam worksite*
56. The OCIJ has interviewed three witnesses regarding the alleged Tuol Kok Khou execution site, including Men At (alternative spelling Min Art, alias Kim Sam At).<sup>99</sup>

## G. Wat Batheay Security Centre

- i. *Interview former detainees Run (or Sarun) and Chhay Khloeng*
57. The OCIJ has interviewed Seng Run.<sup>100</sup>
58. The name Chhay Khloeng appears in an OCP mission report to Batheay District. OCP Witness Chea Phi identifies Chhay Khloeng as a survivor of the Wat Batheay Security Centre who lives in Prey Nhea Village, Batheay District.<sup>101</sup> The OCIJ interviewed an individual named Chhay Loeng from Prey Nhea Village on 15 September 2011.<sup>102</sup> In his WRI he states that he was detained at Wat Batheay Security Centre.<sup>103</sup> I am satisfied that Chhay Khloeng and Chhay Loeng are the same person.

<sup>97</sup> Case File No. 004-D3/2, *Written Record of Interview of KIM UI*, 28 July 2010, A3; Case File No. 004-D3/4, *Written Record of Interview of CHIN Sinal*, 17 August 2010, Q1, A5; Case File No. 004-D78, *Written Record of Interview of witness CHIN Sinal*, 26 August 2011, A1; Case File No. 004-D219/288, *Written Record of Interview witness CHHEUN Lai Sim*, 24 April 2015, A7; Case File No. 004-D219/285, *Written Record of Interview witness HO Hoeun*, 21 April 2015, A5; Case File No. 004-D219/405, *Written Record of Interview Witness CHHIM Bunserey*, 29 June 2015, A29-A30; Case File No. 004-D219/324, *Written Record of Interview witness CHIN Tep*, 19 May 2015, A3.

<sup>98</sup> Case File No. 004-D3/4, *Written Record of Interview of CHIN Sinal*, 17 August 2010, A13; Case File No. 004-D78, *Written Record of Interview of witness CHIN Sinal*, 26 August 2011, A1-A4; Case File No. 004-D219/288, *Written Record of Interview witness CHHEUN Lai Sim*, 24 April 2015, A18-A22; Case File No. 004-D219/285, *Written Record of Interview witness HO Hoeun*, 21 April 2015, A5; Case File No. 004-D219/405, *Written Record of Interview Witness CHHIM Bunserey*, 29 June 2015, A29-A30; Case File No. 004-D219/324, *Written Record of Interview witness CHIN Tep*, 19 May 2015, A5-A7.

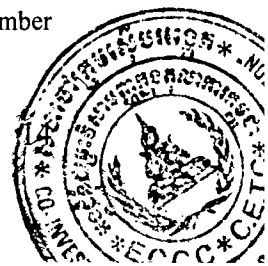
<sup>99</sup> Case File No. 004-D3/3, *Written Record of Interview of BOEU Tauch*, 29 July 2010, A8-A11; Case File No. 004-D219/288, *Written Record of Interview witness CHHEUN Lai Sim*, 24 April 2015, A11; Case File No. 004-D219/286, *Written Record of Interview witness MIN Art*, 22 April 2015, A6-A7, A15-A16.

<sup>100</sup> Case File No. 004-D97, *Written Record of Interview of witness SENG Run*, 17 September 2011.

<sup>101</sup> Case File No. 004-D1.3.10.22, *Report entitled "Mission to Batheay District, Kampong Cham Province"*, 30 July 2007, ERN 00221801, para. 20.

<sup>102</sup> Case File No. 004-D91, *Written Record of Interview of witness CHHOAY Loeung*, 15 September 2011.

<sup>103</sup> Case File No. 004-D91, *Written Record of Interview of witness CHHOAY Loeung*, 15 September 2011, ERN 00746985.



ii. *Interview former prison chief Khim*

59. An OCIJ investigator interviewed Pin Pov, who changed his name from Khun Khim in 1979.<sup>104</sup>

iii. *Interview former deputy prison chief Lim*

60. An OCIJ investigator attempted to locate this individual, but was told by his mother-in-law that he passed away ten years prior.<sup>105</sup> The local village chief confirmed this information.<sup>106</sup> Therefore, I am convinced that this person is deceased.

iv. *Interview former executioner Choeun*

61. Former International CIJ Blunk interviewed Chuob Cheun.<sup>107</sup>

v. *Interview other former prison staff*

62. The OCIJ has been unable to locate any further surviving staff from the Wat Batheay Security Centre besides the abovementioned witnesses Khim and Cheoun.<sup>108</sup>

vi. *Identify and interview surviving members of the Batheay District Committee, including former District Secretary Pheum*

63. The OCIJ attempted to interview former Batheay District Secretary Pheum (alternative spelling Phim), but was unable to locate him, nor his wife.<sup>109</sup> One witness told the OCIJ that Pheum is deceased.<sup>110</sup> The OCIJ has not been able to locate any surviving members of the Batheay District Committee.

## H. Wat O Trau Kuon Security Centre & genocide of the Cham

64. The OCIJ has extensively investigated the alleged Wat O Trau Kuon Security Centre, including the genocide of the Cham at this site.<sup>111</sup> Consequently, I

<sup>104</sup> Case File No. 004-D219/116, *Written Record of Interview of PIN Pov*, 4 December 2014, A3-A5; Case File No. 004-D219/871, *Written Record of Interview witness PIN Peou*, 22 November 2016.

<sup>105</sup> Case File No. 004-D219/96, *Written Record of Investigation Action*, 1 December 2014, ERN 01043247.

<sup>106</sup> Case File No. 004-D219/96, *Written Record of Investigation Action*, 1 December 2014, ERN 01043247.

<sup>107</sup> Case File No. 004-D99, *Written Record of Interview of witness CHUOB Cheun*, 17 September 2011.

<sup>108</sup> *Supra*, paras 59, 61.

<sup>109</sup> Case File No. 004-D219/116, *Written Record of Interview of PIN Pov*, 4 December 2014, A61; Case File No. 004-D97, *Written Record of Interview of witness SENG Run*, 17 September 2011, ERN 00746830; Case File No. 004-D91, *Written Record of Interview of witness CHHOAY Loeung*, 15 September 2011, ERN 00746988; Case File No. 004-D219/315, *Written Record of Interview witness SAT Pheap*, 18 May 2015, A84; Case File No. 004-D219/97, *Written Record of Investigation Action*, 1 December 2014 (calling his wife, his widow, and saying that they could not locate her either).

<sup>110</sup> Case File No. 004-D117/50, *Written Record of Interview of IM Pon*, 23 May 2014, A21.

<sup>111</sup> For example: Case File No. 004-D117/58, *Written Record of Interview of MUY Vanny*, 3 July 2014, A3-A6; Case File No. 004-D117/63, *Written Record of Interview of SAY Doeun*, 6 August 2014, a17-A18; Case File No. 004-D219/217, *Written Record of Interview of Civil Party CHHEN Ham*, 11 March 2015, A5, A26, A28-A29, A147-A163; Case File No. 004-D1.3.11.46, *Interview of SENG Khuy*, 7 August 2008; Case File No. 004-D6.1.192, *Written Record of Interview of SENG Srun (1)*, 11 August 2008; Case File No. 004-D6.1.399, *Written Record of Interview of SENG Srun*, 20 October 2008, ERN 00235516-ERN 00235517; Case File No. 004-D6.1.381, *Written Record of Interview of SENG Srun*, 23 June 2009; Case File No. 004-D6.1.700, *Written Record of Interview of SENG Srun*, 9 December 2009, A6, A8, A12; Case File No. 004-D38, *Written Record of Interview of witness SENG Khuy*, 14 July



consider the crime base investigation of this alleged crime site completed. Unless in the course of the ongoing Case 004 investigation any further leads arise on this matter that may lead to exculpatory evidence, I do not consider it necessary to conduct any further investigative steps in relation to War O Trau Kuon or the genocide of the Cham at this site.

*i. Interview former detainees, including Moeng Peng Hao and Phai*

65. In his interview with the OCP on 7 August 2008, Moeng Peng Hao says that in 1977 he was detained at Wat O Trau Kuon for one day and night.<sup>112</sup> He describes the layout of the security centre as well as the detention and execution of prisoners.<sup>113</sup> The OCIJ attempted to locate Moeng Peng Hao in 2014, but was told by witness Seng Srun that he had died two or three years prior.<sup>114</sup> I note that at the time of the OCP interview in 2008 he was already 82 years old.<sup>115</sup> Given Moeng Peng Hao's advanced age and indications that he may be deceased, I do not consider it an efficient use of OCIJ resources to attempt to locate this witness.
66. The name Phai appears in an OCP interview with Bao Troab, who says that Phai was detained at Wat O Trau Kuon and survived.<sup>116</sup> However, in the absence of any *prima facie* reasons that Phai may be able to give exculpatory evidence, I do not consider it necessary to attempt to locate her.

*ii. Interview former prison staff or district security cadres, including Mui Vany and Chauy (or Chay)*

67. OCIJ has recorded a judicial interview with witness Mui Vanny.<sup>117</sup>
68. Witness Seng Srun identifies Chay as a leader of the Long Sword Militias in Kang Meas District.<sup>118</sup> Seng Srun said Chay is his brother-in-law, lives in Kampong Speu Province and operates a taxi business.<sup>119</sup> In 2014, an OCIJ investigator located Chay in Kampong Cham Province and established that he had changed his name to Ly Loas.<sup>120</sup> On 9 April 2009, an OCIJ investigator interviewed a witness named Leav Loas from Kampong Speu, who told the investigator that he worked in a mobile unit in Kang Meas District during the Khmer Rouge period, and now

---

2011, ERN 00722236; Case File No. 004-D76, *Written Record of Interview of witness SENG Srun*, 25 August 2011, A4, A11, A21-A26; Case File No. 004-D6.1.414, *Written Record of Interview of TAY Kimhuon*, 24 November 2008, ERN 00251015, ERN 00251020- ERN 00251021; Case File No. 004-D117/65, *Written Record of Interview of SOK Meng Ly*, 26 August 2014, A12-A19; Case File No. 004-D6.1.400, *Written Record of Interview of SÁMRET Mui*, 20 October 2008, ERN 00235508; Case File No. 004-D117/64, *Written Record of Interview of THONG Kim Khun*, 4 August 2014, A9-A12; Case File No. 004-D219/402, *Written Record of Interview witness TUY Khuy*, 4 July 2015, A3, A6, A8-A9, A25-A27.

<sup>112</sup> Case File No. 004-D1.3.11.31, *Interview of witness MOENG Heng Pao*, 7 August 2008.

<sup>113</sup> Case File No. 004-D1.3.11.31, *Interview of witness MOENG Heng Pao*, 7 August 2008.

<sup>114</sup> Case File No. 004-D117/69, *Written Record of Investigation Action*, 19 September 2014, ERN 01026537.

<sup>115</sup> Case File No. 004-D1.3.11.31, *Interview of witness MOENG Heng Pao*, 7 August 2008, ERN 00210470.

<sup>116</sup> Case File No. 004-D3/5.1, *Annex: Interview note of BAO Troab*, 5 August 2008, ERN 00210429.

<sup>117</sup> Case File No. 004-D84, *Written Record of Interview of witness MUY Vanny*, 27 August 2011.

<sup>118</sup> Case File No. 004-D6.1.399, *Written Record of Interview of SĒNG Srun*, 20 October 2008, ERN 00235517.

<sup>119</sup> Case File No. 004-D6.1.399, *Written Record of Interview of SĒNG Srun*, 20 October 2008, ERN 00235518.

<sup>120</sup> Case File No. 004-D117/69, *Written Record of Investigation Action*, 19 September 2014, ERN 01026538.





works as a farmer.<sup>121</sup> He said that an individual named Chap was the chairman of the Long Sword Militia.<sup>122</sup> Despite these inconsistencies, I am satisfied that witness Leav Loas is the same person as Chay. Therefore, I find it unnecessary to re-interview this witness.

*iii. Interview Srorn, Thov Vantha, and Thuok Eng*

69. In an interview with an OCP investigator on 6 August 2008, Seng Srun states that Srorn, Thov Vantha, and Thuok Eng helped lead 200 to 300 Cham to Wat O Trau Kuon.<sup>123</sup> He intimated that Thov Vantha and Thuok Eng live in his village and Srorn lives in Sambour Meas Kha.<sup>124</sup> As noted above, I consider the crime base investigation of the Wat O Trau Kuon Security Centre complete. As there is no indication that these individuals may be able to give exculpatory evidence, I am unconvinced that it is necessary to interview them.

*iv. Interview Moeun*

70. Witness Seng Srun told an OCIJ investigator that Moeun told him that all the villagers from Sambour Meas Village were killed at Wat O Trau Kuon.<sup>125</sup> He said that Moeun was originally from Prek Krabao, but he did not know where he was living.<sup>126</sup> As noted above, I consider the investigation into Wat O Trau Kuon complete. In the absence of any indications that this person may be able to give exculpatory evidence, I do not consider it necessary to interview Moeun.

*v. Interview Seng Khuy*

71. The OCIJ has interviewed Seng Khuy.<sup>127</sup>

*vi. Interview An*

72. Witness Seng Khuy told an OCP investigator that his unit chief An ordered him to drive an ox cart of a group of Cham prisoners to Wat O Trau Kuon.<sup>128</sup> He said that he believed that An was alive and had moved to Boeng Ket area in Steng Trung District.<sup>129</sup> However, as noted above, I consider the crime base investigation of the Wat O Trau Kuon Security Centre completed. As there is no indication that An may be able to give exculpatory evidence, I am unconvinced that it is necessary to interview this individual.

*vii. Interview Chea Maly*

73. The OCIJ interviewed Chea Maly on 14 July 2011.<sup>130</sup>

<sup>121</sup> Case File No. 004-D6.1.363, *Written Record of Interview of LEAV Loas*, 9 April 2009, ERN 00339932-ERN 00339933.

<sup>122</sup> Case File No. 004-D6.1.363, *Written Record of Interview of LEAV Loas*, 9 April 2009, ERN 00339937.

<sup>123</sup> Case File No. 004-D1.3.11.47, *Interview of SENG Srun*, 6 August 2008, ERN 00210488.

<sup>124</sup> Case File No. 004-D1.3.11.47, *Interview of SENG Srun*, 6 August 2008, ERN 00210488.

<sup>125</sup> Case File No. 004-D6.1.192, *Written Record of Interview of SENG Srun (1)*, 11 August 2008, ERN 00242087.

<sup>126</sup> Case File No. 004-D6.1.192, *Written Record of Interview of SENG Srun (1)*, 11 August 2008, ERN 00242087.

<sup>127</sup> Case File No. 004-D38, *Written Record of Interview of witness SENG Khuy*, 14 July 2011.

<sup>128</sup> Case File No. 004-D1.3.11.46, *Interview of SENG Khuy*, 7 August 2008, ERN 00210482.

<sup>129</sup> Case File No. 004-D1.3.11.46, *Interview of SENG Khuy*, 7 August 2008, ERN 00210482.

<sup>130</sup> Case File No. 004-D36, *Written Record of Interview of witness CHEA Maly*, 14 July 2011.



viii. *Interview Kan and his wife Pheap*

74. An OCIJ investigator attempted to locate Kan during a mission to Kampot province.<sup>131</sup> The investigator found Kan's birthplace and met with people who knew him.<sup>132</sup> They confirmed that Kan died in 1982 or 1983 and that most of his relatives are also deceased.<sup>133</sup>

75. The OCIJ has been unable to locate Pheap or confirm whether she is alive.

ix. *Interview former District Security Chief Han*

76. According to Seng Srun, Han was Chief of the Wat O Trau Kuon Security Centre and came from the Southwest Zone.<sup>134</sup> He said he does not know what happened to Han after the fall of the Khmer Rouge regime.<sup>135</sup> The OCIJ attempted to interview Han but was unable to locate him despite questioning other witnesses about his whereabouts.<sup>136</sup>

x. *Interview Chan (chairman of a mobile unit battalion)*

77. Chan is referred to by witness Man Heang, who was interviewed on 10 December 2009 and said that he received his orders from Chan, the battalion chairman who lives in Preaek Krabao.<sup>137</sup> As the investigation into Wat O Trau Kuon is complete, and in the absence of any indications that Chan may be able to give exculpatory evidence, I do not consider it necessary to interview him.

xi. *Interview any other former zone, sector, district, or commune cadre with knowledge of Wat O Trau Kuon prison, mass executions of the Cham, or the role of district, sector, zone, and party centre leaders in such matters*

78. The OCIJ has interviewed Civil Party Penh Va, who was a cadre of Sector 41 working in a textile unit in Prey Tortoeng Village, Chrey Vien Commune, Prey Chhor District, Kampong Cham Province.<sup>138</sup> Later, he was in charge of the vegetable unit in Prek Krabao Commune, Kang Meas District.<sup>139</sup> In October 1977, he was sent to work in a cooperative in Roka Koy Commune.<sup>140</sup> He said that he knew about a mass grave called Au Trakuon where 38,690 people were executed and buried.<sup>141</sup>

<sup>131</sup> Case File No. 004-D117/49, *Written Record of Investigation Action*, 16 May 2014.

<sup>132</sup> Case File No. 004-D117/49, *Written Record of Investigation Action*, 16 May 2014, ERN 00987460.

<sup>133</sup> Case File No. 004-D117/49, *Written Record of Investigation Action*, 16 May 2014, ERN 00987460.

<sup>134</sup> Case File No. 004-D1.3.11.47, *Interview of SENG Srun*, 6 August 2008, ERN 00210486; Case File No. 004-D76, *Written Record of Interview of witness SENG Srun*, 25 August 2011, A16, A32-A34.

<sup>135</sup> Case File No. 004-D1.3.11.47, *Interview of SENG Srun*, 6 August 2008, ERN 00210486.

<sup>136</sup> Case File No. 004-D117/65, *Written Record of Interview of SOK Meng Ly*, 26 August 2014, A17-A18; Case File No. 004-D117/58, *Written Record of Interview of MUY Vanny*, 3 July 2014, A36.

<sup>137</sup> Case File No. 004-D6.1.702, *Written Record of Interview of MÂN Heang*, 10 December 2009, A7.

<sup>138</sup> Case File No. 004-D219/226, *Written Record of Interview of Civil Party PENH Va*, 11 March 2015, A2, A6.

<sup>139</sup> Case File No. 004-D219/226, *Written Record of Interview of Civil Party PENH Va*, 11 March 2015, A14.

<sup>140</sup> Case File No. 004-D219/226, *Written Record of Interview of Civil Party PENH Va*, 11 March 2015, A23.

<sup>141</sup> Case File No. 004-D219/226, *Written Record of Interview of Civil Party PENH Va*, 11 March 2015, A23.



79. The OCIJ has also interviewed members of the Long Sword Unit (commune level), who told investigators that they conducted arrests of prisoners and transported them to Wat Au Trau Kuon.<sup>142</sup>
80. As explained above, I do not consider it necessary to conduct any further interviews regarding the alleged security centre at Wat O Trau Kuon.

### **I. Purge of the Central Zone**

- i. Identify and interview witnesses regarding the zone, sector and district leaders from the Central (old North) Zone who were arrested in February and March 1977*
81. The OCIJ has interviewed numerous witnesses with knowledge of zone, sector, and district leaders in the Central (Old North) Zone who were allegedly purged in 1977.<sup>143</sup>
- ii. Interview Khun Sareth*
82. The OCIJ has interviewed Khun Sareth.<sup>144</sup>
- iii. Interview Ruos Chhieng*
83. Ruos Chhieng is deceased; his death certificate is available on the Case File.<sup>145</sup>
- iv. Interview Cheng Tul regarding the arrest of Central Zone Deputy Secretary Chor Chhan (alias Sreng) and his relatives*
84. The OCIJ interviewed Cheng Tul on 22 May 2015 and asked her about the arrest of Sreng and his family.<sup>146</sup> Cheng Tul confirmed that she is Sreng's niece but told the OCIJ investigator that she did not remember in which year Sreng was arrested.<sup>147</sup> However, she affirmed her previous statements regarding the arrest of Sreng and his relatives.<sup>148</sup>

<sup>142</sup> Case File No. 004-D117/63, *Written Record of Interview of SAY Doeun*, 6 August 2014, A17, A20, A22, A29; Case File No. 004-D117/65, *Written Record of Interview of SOK Meng Ly*, 26 August 2014, A1, A12, A19; Case File No. 004-D6.1.414, *Written Record of Interview of TAY Kimhuon*, 24 November 2008, ERN 00251017- ERN 00251018; see also: Case File No. 004-D76, *Written Record of Interview of witness SENG Srun*, 25 August 2011, A24-A25.

<sup>143</sup> For example: Case File No. 004-D219/315, *Written Record of Interview witness SAT Pheap*, 18 May 2015, A26, A74-A88; Case File No. 004-D219/327, *Written Record of Interview witness CHENG Tul*, 22 May 2015; Case File No. 004-D219/354, *Written Record of Interview witness MAM Sin*, 25 May 2015, A2, A6.; Case File No. 004-D219/582, *Written Record of Interview witness TOY Meach*, 2 November 2015, A10-A12, A14-A20.

<sup>144</sup> Case File No. 004-D93, *Written Record of Interview of witness KHUN Saret*, 16 September 2011.

<sup>145</sup> Case File No. 004-D100, *Report of Field investigations Conducted from 25 to 27 August 2011 for Case file 004*, 21 September 2011, ERN 00743540; Case File No. 004-D100.2, *Death certificate of RUOS Chheang*, 25 August 2011.

<sup>146</sup> Case File No. 004-D219/327, *Written Record of Interview witness CHENG Tul*, 22 May 2015, A2, A32-A33.

<sup>147</sup> Case File No. 004-D219/327, *Written Record of Interview witness CHENG Tul*, 22 May 2015, A2.

<sup>148</sup> Case File No. 004-D219/327, *Written Record of Interview witness CHENG Tul*, 22 May 2015, A32-A33.



- v. *Interview Kun Sokha regarding the arrest of Central Zone Deputy Secretary Chor Chhan (alias Sreng) and his relatives*

85. Kun Sokha is deceased; his death certificate is available on the Case File.<sup>149</sup>

- vi. *Interview Chan Ya regarding the arrest of Central Zone Deputy Secretary Chor Chhan (alias Sreng) and his relatives*

86. Chan Ya is deceased. A copy of his death certificate is annexed to this Decision.<sup>150</sup>

- vii. *Identify and interview witnesses regarding the colonial prison in Kampong Thom City that was used for Central Zone cadres, including Huor Sieng Lun, who were arrested in 1977*

87. The Kampong Thom City prison is not alleged as a crime site in the 3IS, but is mentioned in a footnote regarding the alleged purge of the Central Zone.<sup>151</sup> Consequently, I do not consider myself seized of the colonial prison in Kampong Thom City.

- viii. *Question all witnesses from the Central Zone interviewed by OCIJ regarding the purge of local cadres on or following the arrival of CPK cadres from the Southwest Zone in 1977, and whether there was any change in arrests, executions, or living conditions following the arrival of the Southwest cadres*

88. Over the course of the investigation, OCIJ investigators have generally asked witnesses from the Central Zone about arrests of local cadres and whether there was any change after the arrival of cadres from the Southwest Zone.<sup>152</sup>

## **J. Responsibility of Sector and Zone leaders, including Ao An**

- i. *Interview Khieu Samphan*

89. On 2 September 2016, I enquired with the Co-Lawyers for Khieu Samphan whether their client was prepared to participate in a judicial interview as part of the investigation in Case 004. On 19 September 2016, the Co-Lawyers advised me via letter that their client wishes to exercise his right to remain silent. A copy of the letter is annexed to this Decision.<sup>153</sup>

<sup>149</sup> Case File No. 004-D100, *Report of Field investigations Conducted from 25 to 27 August 2011 for Case file 004*, 21 September 2011, ERN 00743540; Case File No. 004-D100.1, *Death certificate of KUN Sotha*, 25 August 2011.

<sup>150</sup> Case File No. 004-D41/2.2, *Annex B: Death Certificate of Chan Ya*, [date].

<sup>151</sup> Case No. 004-D1, [*Corrected 2*] *Third Introductory submission dated 20-11-2008*, 20 November 2008, para. 19 (footnote 26) (“3IS”).

<sup>152</sup> For example: Case File No. D219/59, *Written Record of Interview of Civil Party MOM Sroeurng*, 11 November 2014, A3-A6; Case File No. 004-D219/82, *Written Record of Interview of RIEL Neang*, 21 November 2014, A7-A9; Case File No. 004-D219/123, *Written Record of Interview of SAR Khim*, 15 December 2014, A14; Case File No. 004-D219/288, *Written Record of Interview witness CHHEUN Lai Sim*, 24 April 2015; A28-A33; Case File No. 004-D219/435, *Written Record of Interview witness TOUCH Chamroeun*, 30 July 2015, A64-A67, A91.

<sup>153</sup> Case File No. 004-D41/2.3, *Annex C: Letter from Co-Lawyer for Khieu Samphan*, 19 September 2016.



ii. *Interview Ieng Sary*

90. Ieng Sary is deceased. A copy of his death certificate is annexed to this Decision.<sup>154</sup>

iii. *Interview Nuon Chea*

91. On 13 September 2016, I discussed the possibility of Nuon Chea's participation in the Case 004 investigation with his international Co-Lawyer. On 21 October 2016, the international Co-Lawyer informed me that his client would only be in a position to participate in a judicial interview after the closing submissions in Case 002/02.<sup>155</sup>

92. While Nuon Chea may be able to give relevant evidence regarding the allegations against Ao An, there are no *prima facie* indications that he could give exculpatory evidence. Furthermore, the benefit of obtaining a statement must be weighed against the likely delay to the investigation. In this regard, the closing statements in Case 002/02 are forecast to be completed by 1 April 2017,<sup>156</sup> whereas the investigation in respect of Ao An is due to conclude by the end of 2016.<sup>157</sup> I am not prepared to delay the conclusion of the investigation for the uncertain prospect of Nuon Chea participating in a judicial interview.

iv. *Identify and interview all surviving District Secretaries or members of the Sector 41, 42 and 43 Committees*

93. The OCIJ has obtained WRIs with the following former district-level cadres:

- a. Prak Yut (Kampong Siem District Secretary);<sup>158</sup>
- b. Sou Soeun (Chamkar Leu District Secretary);<sup>159</sup> and
- c. Ban Siek (Chamkar Leu District Deputy Secretary).<sup>160</sup>

94. The OCIJ has been unable to locate any surviving former sector-level cadres from the Central Zone.

<sup>154</sup> Case File No. 004-D41/2.4, *Annex D: Death Certificate of Ieng Sary*, 14 March 2013.

<sup>155</sup> Case File No. 004-D41/2.5, *Annex E: Correspondence from International Co-Lawyer for Nuon Chea*, 21 October 2016.

<sup>156</sup> Extraordinary Chambers in the Courts of Cambodia, Completion Plan Revised 10, 30 September 2016 ("Completion Plan"), para. 8, available at <https://eccc.gov.kh/sites/default/files/Completion%20Plan%20revision%2010.pdf>

<sup>157</sup> Completion Plan, para. 37.

<sup>158</sup> Case File No. 004-D117/70, *Written Record of Interview of PRAK Yut Dated 28-05-2013*, 28 May 2013; Case File No. 004-D117/71, *Written Record of Interview of PRAK Yut Dated 19-06-2013*, 19 June 2013; Case File No. 004-D117/72, *Written Record of Interview of PRAK Yut Dated 21-06-2013*, 21 June 2013; Case File No. 004-D117/73, *Written Record of Interview of PRAK Yut Dated 27-10-2013*, 27 October 2013; Case File No. 004-D219/120, *Written Record of Interview of PRAK Yut*, 30 September 2014; Case File No. 004-D219/484, *Written Record of Interview witness PRAK Yut, dated 21-08-2015*, 21 August 2015.

<sup>159</sup> Case File No. 004-D6.1.385, *Written Record of Interview of SOU Soeun*, 5 July 2009.

<sup>160</sup> Case File No. 004-D6.1.351, *Written Record of Interview of BAN Siek*, 17 February 2009; Case File No. 004-D6.1.386, *Written Record of Interview of BAN Siek*, 6 July 2009; Case File No. 004-D107/15, *Written Record of Interview of BAN Siek*, 1 April 2012; Case File No. 004-D117/35, *Written Record of Interview of BAN Siek*, 24 March 2014; Case File No. 004-D219/355, *Written Record of Interview witness BAN Siek*, 26 May 2015.



v. *Interview former Prek Prasap District Secretary Hean*

95. The OCIJ has interviewed Saray Hean who told investigators that he was a member of the Russey Keo Commune Committee.<sup>161</sup> A WRI of Saray Hean from Case 002 has also been placed on the Case File, in which he told OCIJ investigators that he was also the commune secretary of Russey Keo commune and a member of the Prasap District Committee.<sup>162</sup>

vi. *Interview Ao An*

96. Ao An was summoned to appear at an initial appearance on 27 March 2015. Following a brief statement, Ao An informed my predecessor that he exercises his right to remain silent and therefore will not answer any questions.<sup>163</sup> At a further appearance on 14 March 2016, Ao An waived his right to be present, and his co-lawyers elected not to make a statement or submit observations.<sup>164</sup> Given Ao An's election to exercise his right to remain silent, I will not seek a judicial interview with him.


**FOR THE FOREGOING REASONS, I:**

97. **INFORM** the ICP that the Request has been performed in part; and

98. **DENY** the remainder of the Request.

This decision is filed in English, with a Khmer translation to follow.

Dated: 7 December 2016, Phnom Penh



**Judge Michael Bohlander**  
**សមាជិកក្រុមស៊ើបអង្កេតអន្តរជាតិ**

**International Co-Investigating Judge**  
**Co-juge d'instruction international**

<sup>161</sup> Case File No. 004-D219/353, *Written Record of Interview witness SARAY Hean*, 22 May 2015, A1 ; Case File No. 004-D219/762, *Written record of interview witness SARAY Hean*, 19 May 2016, A76-A77 .

<sup>162</sup> Case File No. 004-D6.1.980, *Written Record of Interview of Witness SARAY Hean*, 10 March 2010, A1.

<sup>163</sup> Case File No. 004-D242, *Written Record of Initial Appearance of AO An*, 27 March 2015, ERN 01096765.

<sup>164</sup> Case File No. 004-D303, *Written Record of Further Appearance of AO An*, 14 March 2016, ERN 01213483.