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

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Office of the Co-Investigating Judges  
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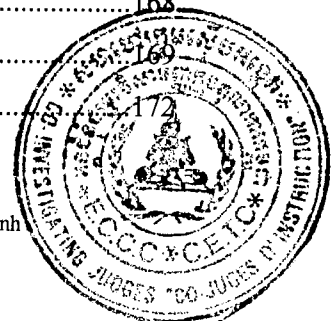


## CONTENTS

1	PROCEDURAL HISTORY .....	6
2	PRELIMINARY MATTERS .....	11
2.1	PTC considerations in Case 004/1 and their impact on this Closing Order .....	11
2.2	Defence request for a permanent stay of proceedings .....	11
2.3	Standard of proof .....	12
2.4	ICP request to indict for crimes alleged but not charged .....	12
3	APPLICABLE LAW .....	12
3.1	Personal Jurisdiction at the ECCC .....	12
3.2	Crimes under the jurisdiction of the ECCC .....	14
3.2.1	International crimes .....	14
3.2.2	National crimes .....	33
3.3	Modes of liability .....	34
3.3.1	Modes of liability applicable to international crimes .....	34
3.3.2	Modes of liability applicable to national crimes .....	42
4	EVIDENTIARY CONSIDERATIONS .....	43
4.1	Statements other than written records of interviews generated by the OCIJ .....	43
4.2	Hearsay evidence and reliance on uncorroborated evidence .....	45
4.3	Torture-tainted evidence .....	46
4.4	Documentation Center of Cambodia mapping report .....	47
4.5	Victim numbers .....	48
4.5.1	Calculating victim numbers based on evidence provided by a witness .....	49
4.5.2	Calculating victim numbers based on the evidence of multiple witnesses .....	50
4.5.3	Counting families .....	50
4.6	The OCIJ's list of S-21 prisoners .....	51
4.7	Letters of assurance .....	51
4.8	Attempts to obtain the assistance of Vietnam, Thailand, and the United Nations .....	51
5	FACTUAL ANALYSIS AND FINDINGS .....	53
5.1	RAK structure and Meas Muth's roles and responsibilities .....	53
5.1.1	RAK and Central/Standing Committees .....	53
5.1.2	Division 164 structure .....	56
5.1.3	Meas Muth's authority as Division Commander .....	
5.1.4	Meas Muth's position as the Secretary of Kampong Som Autonomous Sector .....	
5.1.5	Meas Muth's role within the General Staff .....	



5.1.6	Assignment to Kratie and the East Zone .....	61
5.1.7	S-21 Security Centre .....	62
5.2	Factual findings on JCE .....	66
5.2.1	The CPK policy on the establishment and operation of ‘cooperatives’ and forced labour worksites .....	67
5.2.2	The ‘re-education’ of ‘bad elements’ and killing of ‘enemies’ both inside and outside the military .....	72
5.2.3	The targeting of specific groups, in particular persons of Vietnamese and Thai ethnicity or nationality (real or perceived) including those current or former military personnel .....	80
5.2.4	Forced marriage of civilians and members of the RAK.....	84
5.3	Armed conflicts with Vietnam and Thailand .....	95
5.3.1	Vietnam .....	95
5.3.2	Thailand.....	100
5.4	Crimes committed by the DK Navy .....	102
5.4.1	Introduction .....	102
5.4.2	Capture of Thai and Vietnamese vessels.....	103
5.4.3	Joint operations of Divisions 1 and 164 in Koh Kong .....	109
5.4.4	Executions on the islands of DK .....	111
5.4.5	Victim numbers .....	120
5.5	Durian Plantation Killing Site .....	126
5.5.1	Object of the charge .....	126
5.5.2	Location and time of operation.....	127
5.5.3	Structure and personnel .....	128
5.5.4	Use as a killing site.....	128
5.5.5	Visits by Meas Muth .....	131
5.6	Crimes against members of Divisions 164, 502, 310, and 117 .....	131
5.6.1	Introduction .....	131
5.6.2	Purge of Division 164.....	131
5.6.3	Purges of Divisions 502, 310, and 117.....	141
5.6.4	Victim numbers for purges of Divisions 164, 502, 310, and 117.....	163
5.7	Kang Keng and Bet Trang (“Ream Area”) Worksites .....	163
5.7.1	Location and composition of the worksites and cooperatives .....	163
5.7.2	Structure and personnel .....	166
5.7.3	Times of operation of the worksites .....	168
5.7.4	Workforce.....	169
5.7.5	Living and working conditions.....	172



5.7.6	Transfers, arrests and disappearances.....	178
5.7.7	Visits by Meas Muth .....	183
5.8	Stung Hav Worksites.....	183
5.8.1	Location and times of operation .....	183
5.8.2	Structure and personnel .....	187
5.8.3	Workforce.....	189
5.8.4	Living and working conditions.....	193
5.8.5	Arrests, detention and interrogation .....	199
5.8.6	Killings and disappearances .....	202
5.8.7	Visits by Meas Muth .....	203
5.9	Toek Sap Security Centre.....	204
5.9.1	Location and establishment.....	204
5.9.2	Structure and personnel .....	206
5.9.3	Arrests and detention.....	207
5.9.4	Killings and disappearances .....	210
5.9.5	Visits by Meas Muth .....	214
5.10	Wat Enta Nhien Security Centre .....	214
5.10.1	Location and establishment.....	214
5.10.2	Structure and personnel .....	215
5.10.3	Detention and conditions of detention.....	216
5.10.4	Interrogation .....	218
5.10.5	Killings .....	219
5.10.6	Visits by Meas Muth .....	221
5.11	Forced marriage in Kampong Som .....	221
6	LEGAL FINDINGS ON PERSONAL JURISDICTION.....	227
6.1	Position in the DK hierarchy .....	227
6.2	Nature and gravity of the crimes attributed.....	228
6.3	Conclusion.....	229
7	LEGAL FINDINGS ON CRIMES.....	230
7.1	Chapeau elements of crimes against humanity .....	230
7.2	Chapeau elements of grave breaches of the Geneva Conventions .....	231
7.3	Legal findings on crimes .....	232
7.3.1	Killing of the Vietnamese by the DK Navy .....	232
7.3.2	Killing of the Thai by the DK Navy .....	232
7.3.3	Durian Plantation Killing Site .....	239





7.3.4	Purges of Divisions 164, 502, 310, and 117.....	240
7.3.5	Kang Keng and Bet Trang (Ream Area) Worksites.....	242
7.3.6	Stung Hav Worksites.....	244
7.3.7	Toek Sap Security Centre.....	245
7.3.8	Wat Enta Nhien Security Centre.....	247
7.3.9	Forced marriage in Kampong Som.....	249
8	LEGAL FINDINGS ON MODES OF LIABILITY.....	249
8.1	International crimes.....	249
8.1.1	Commission via joint criminal enterprise (JCE).....	249
8.1.2	Planning.....	251
8.1.3	Ordering.....	252
8.1.4	Superior responsibility.....	252
8.2	Domestic Crimes.....	253
8.2.1	Co-perpetration.....	253
8.2.2	Planning and ordering.....	253
9	DECISION ON PRE-TRIAL DETENTION.....	253
10	TERMINATION ORDER UNDER RULE 66 <i>BIS</i> .....	253
11	PARTIAL DISMISSAL ORDER.....	254
12	INDICTMENT.....	256
13	TERMINATION OF THE REMAINDER OF THE INVESTIGATION.....	265
ANNEX I	Completion Plan chronology	
ANNEX II	Motions and requests filed with the CIJs	
ANNEX III	Abbreviations/acronyms	
ANNEX IV	List of alternate spellings of witness/civil party applicant names	



## 1 PROCEDURAL HISTORY

1. On 20 November 2008, the ICP issued the *Co-Prosecutors' Second Introductory Submission* ("Introductory Submission") alleging, *inter alia*, that Sou Met and **Meas Muth** were criminally responsible for a number of national and international crimes committed in the territory of the Kingdom of Cambodia, which during the period relevant to the allegations was called Democratic Kampuchea, between 17 April 1975 and 6 January 1979.<sup>1</sup> Due to a disagreement between the Co-Prosecutors, the Introductory Submission was forwarded to the CIJs by the Acting ICP on 7 September 2009.<sup>2</sup>
2. On 29 April 2011, the CIJs issued a notice of conclusion pursuant to Internal Rule 66 stating that they considered the investigation to have been concluded.<sup>3</sup> On 18 May 2011, the ICP filed three requests for investigative action which were rejected by the CIJs on 7 June 2011 on the grounds that the ICP was required to act jointly with his national counterpart unless there had been a delegation of power or a disagreement had been recorded ("7 June 2011 Decision").<sup>4</sup> On 10 June 2011, the ICP re-filed the investigative requests following the recording of a disagreement with the NCP, and on 27 July 2011, the CIJs rejected the three investigative requests ("27 July 2011 Decision").<sup>5</sup> The ICP appealed the 7 June 2011 and 27 July 2011 Decisions, however the PTC was unable to reach the required majority to decide the appeals.<sup>6</sup>
3. On 18 October 2011, Judge Blunk resigned prior to the Case File being forwarded to the Co-Prosecutors pursuant to Internal Rule 66(4), and on 2 December 2011, the Reserve ICIJ ordered the resumption of the judicial investigation.<sup>7</sup>

<sup>1</sup> **D1**, *Co-Prosecutors' Second Introductory Submission Regarding the Revolutionary Army of Kampuchea*, 20 November 2008.

<sup>2</sup> **D1/1**, *Acting International Co-Prosecutor's Notice on Filing of the Second Introductory Submission*, 7 September 2009.

<sup>3</sup> **D13**, *Notice of Conclusion of Judicial Investigation*, 29 April 2011.

<sup>4</sup> **D20/3**, *Decision on Time Extension Request and Investigative Requests by the International Co-Prosecutor regarding Case 003*, 7 June 2011, paras 1, 3-5, 12.

<sup>5</sup> **D26**, *Decision on International Co-Prosecutor's Re-filing of Three Investigative Requests in Case 003*, 27 July 2011, paras 3, 5-9.

<sup>6</sup> **D20/4/4**, *Considerations of the Pre-Trial Chamber regarding the International Co-Prosecutor's Appeal against the Decision on Time Extension Request and Investigative Requests regarding Case 003*, 7 November 2011; **D26/1/3**, *Considerations of the Pre-Trial Chamber regarding the International Co-Prosecutor's Appeal against the Decision on Re-Filing of Three Investigative Requests*, 15 November 2011.

<sup>7</sup> **D28**, *Order on Resuming the Judicial Investigation*, 2 December 2011.



4. On 26 October 2012, Mark Harmon took office as the ICIJ. Following his assessment of the Case 003 investigation, Judge Harmon considered that further investigation was necessary before the Case File could be forwarded to the Co-Prosecutors.<sup>8</sup>
5. Disagreements were registered between the CIJs on 7 February 2013, and 22 February 2013.
6. On 22 October 2013, the CIJs notified the parties that Sou Met had died;<sup>9</sup> the proceedings against Sou Met were eventually terminated on 2 June 2015.<sup>10</sup>
7. A further disagreement was registered between the CIJs on 17 July 2014.
8. On 31 October 2014, the ICP filed a supplementary submission seising the CIJs of new allegations against **Meas Muth**, pursuant to Internal Rule 55(3).<sup>11</sup>
9. On 3 March 2015, Judge Harmon charged **Meas Muth** *in absentia* with violations of Articles 501, 506 (homicide) and Article 500 (torture) of the 1956 Penal Code, crimes against humanity, and grave breaches of the Geneva Conventions.<sup>12</sup>
10. Judge Harmon resigned and I took office as the ICIJ with effect from 31 July 2015.
11. On 14 December 2015, at his initial appearance in Battambang, I rescinded certain charges against **Meas Muth** laid by my predecessor, and charged him with violations of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, and additional counts of crimes against humanity, grave breaches of the Geneva Conventions, and violations of Articles 501 and 506 of the 1956 Penal Code (homicide).<sup>13</sup> The full record of charges is contained within the *Written Record of Initial Appearance* dated 14 December 2015.<sup>14</sup>

<sup>8</sup> **D53/2**, *Decision by the International Co-Investigating Judge to Place Case No. 002 Transcripts on the Case File*, 7 February 2013, para. 12.

<sup>9</sup> **D86**, *Notification of the Death of a Suspect in Case File 003*, 22 October 2013, para.5.

<sup>10</sup> **D86/3**, *Dismissal of Allegations Against Sou Met*, 2 June 2015, p. 7.

<sup>11</sup> **D120**, *International Co-Prosecutors' Supplementary Submission Regarding Crime Sites Related to Case 003*, 31 October 2014, paras 6-24.

<sup>12</sup> **D128**, *Decision to Charge Meas Muth in Absentia*, 3 March 2015; **D128.1**, *Annex: Notification against Meas Muth*, 3 March 2015.

<sup>13</sup> **D174**, *Written Record of Initial Appearance*, 14 December 2015.

<sup>14</sup> **D174**, *Written Record of Initial Appearance*, 14 December 2015, pp. 4-10.



12. On 10 January 2017, I issued a decision reducing the scope of the investigation by excluding the following alleged facts pursuant to Internal Rule 66 *bis* (“Rule 66 *bis* Decision”):<sup>15</sup>
- a. all allegations relating to S-22 Security Centre;<sup>16</sup>
  - b. all allegations relating to Kampong Chhnang Airport Construction Site;<sup>17</sup>
  - c. all allegations relating to Stung Tauch Killing Site;<sup>18</sup> and
  - d. all allegations relating to RAK involvement in the ‘purges’ of the Central Zone, the New North Zone and the East Zone, excluding the alleged ‘purges’ of members of the RAK units located in those areas,<sup>19</sup>
- (together, the “Excluded Facts”).
13. The reasons for reducing the scope of the investigation were set out in my *Notice of Provisional Discontinuance and Notification Pursuant to Rule 66 bis*.<sup>20</sup> The investigation into the Excluded Facts must be formally terminated pursuant to Internal Rule 66 *bis* (5) and I will make that order.
14. On 10 January 2017, I notified the parties pursuant to Internal Rule 66(1) of the conclusion of the judicial investigation against **Meas Muth**, and informed the parties that they may request further investigative action within 30 days.<sup>21</sup>
15. A third disagreement was registered between the CIJs on 16 January 2017.
16. A number of investigative requests were subsequently filed by the parties and certain further investigative actions were carried out. On 24 May 2017, following the issuance of decisions on those investigative requests, I issued a second notice of conclusion of

<sup>15</sup> **D226**, *Decision to Reduce the Scope of Judicial Investigation Pursuant to Internal Rule 66 bis*, 10 January 2017.

<sup>16</sup> **D1**, *Co-Prosecutors’ Second Introductory Submission Regarding the Revolutionary Army of Kampuchea*, 20 November 2008, para. 46.

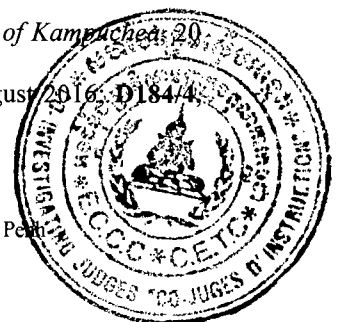
<sup>17</sup> **D1**, *Co-Prosecutors’ Second Introductory Submission Regarding the Revolutionary Army of Kampuchea*, 20 November 2008, para. 47.

<sup>18</sup> **D1**, *Co-Prosecutors’ Second Introductory Submission Regarding the Revolutionary Army of Kampuchea*, 20 November 2008, para. 66.

<sup>19</sup> **D1**, *Co-Prosecutors’ Second Introductory Submission Regarding the Revolutionary Army of Kampuchea*, 20 November 2008, para. 66.

<sup>20</sup> **D184/3**, *Notice of Provisional Discontinuance Regarding Individual Allegations*, 24 August 2016. **D184/4**, *Notification Pursuant to Rule 66 bis*, 22 November 2016.

<sup>21</sup> **D225**, *Notice of Conclusion of Judicial Investigation against Meas Muth*, 10 January 2017.



the judicial investigation against **Meas Muth** and informed the parties that no further requests for investigative action would be entertained.<sup>22</sup>

17. On 25 July 2017, pursuant to Internal Rule 66(4), I forwarded the Case File to the Co-Prosecutors, for the preparation of their final submissions.<sup>23</sup>
18. On 8 August 2017, the ICP requested to modify the schedule of the filing of his final submission.<sup>24</sup> On 4 September 2017, I instructed the ICP to file his final submission in English alone within 3 months from the date of the notification of the forwarding order in both English and Khmer, and the defence for **Meas Muth** (“Defence”) to file their response in English alone within 6 weeks from the date that the full translation of the ICP's final submission is notified (“Scheduling Decision”).<sup>25</sup>
19. On 18 September 2017, the CIJs informed the parties that they considered separate and opposing closing orders based on a disagreement between them as permissible under the law applicable before the ECCC, and of the likely consequences for the appellate process under Internal Rule 77(13).<sup>26</sup>

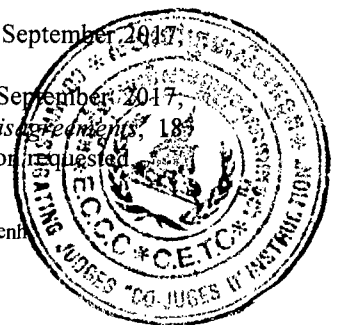
<sup>22</sup> **D252**, *Second Notice of Conclusion of Judicial Investigation against Meas Muth*, 24 May 2017. The PTC, despite not being formally seised of this aspect at the time, has since stated *obiter* in a decision in Case 004 that, according to its interpretation of Internal Rule 66(1), a further 15 days from the date of notification of a second notice of conclusion should have been granted to the parties by the CIJs in order to review any newly collected evidence (see **Case File No. 004-D361/4/1/10**, *Decision on [redacted] Appeal against the Decision on [redacted] Request for Adequate Preparation Time*, 13 November 2017, paras 23-27). I did not consider it necessary to grant the parties in Case 003 a further 15 days to request investigative action in light of the PTC's comments as I considered it unlikely that any party had suffered prejudice as a result of my not granting the further 15 days, and certainly not prejudice to the extent that would constitute an exceptional case warranting a reconsideration of my decision. This is reinforced by the fact that no party in Case 003, despite having access to the public version of the PTC's decision and thus being aware of the PTC's view, appealed my second notice of conclusion or raised the lack of a further 15-day period as an issue, nor did they seek reconsideration of the second notice of conclusion since the PTC's comments were made. This constitutes an informed implied waiver of an additional 15-day period under Internal Rule 66(1), which means the comment by the PTC on the law is moot. It is of relevance in this context that the PTC in Case 004 neither saw fit to formally order the CIJs to grant another 15 days, as it could in theory have done, given that the appeal in that case was after all about adequate preparation time (although under its own reasoning, which did not engage with the CIJs' opposing reasoned opinion in any detail, the lack of another 15-day period could be qualified as a major procedural defect), nor did it consider this aspect as sufficient grounds to extend the preparation time itself as requested by the Defence in Case 004.

<sup>23</sup> **D256**, *Forwarding Order Pursuant to Internal Rule 66(4)*, 25 July 2017.

<sup>24</sup> **D256/1**, *International Co-Prosecutor's Request for Information on the Expected Date of the Notification of the Khmer Version of the Forwarding Order and a Request to Modify the Schedule for the Filing of the Final Submission*, 8 August 2017, para. 8.

<sup>25</sup> **D256/3**, *Decision on Schedule of Prosecution's Final Submission and Defence Response*, 4 September 2017, paras 8-9.

<sup>26</sup> **D262**, *Decision to Place Decisions regarding Disagreements onto Case File 003*, 18 September 2017; **D262.2**, *Decision on Ao An's Urgent Request for Disclosure of Documents Relating to Disagreements*, 18 September 2017, paras 13-16. No appeal was filed against the decision, nor was a reconsideration requested.



20. On 28 September 2017, the Defence requested that I reconsider the Scheduling Decision,<sup>27</sup> and on 5 October 2017, I instructed the Defence to file their response in English alone within 60 days from the date that the full translation of the ICP's final submission was notified.<sup>28</sup>
21. On 14 November 2017, (i) the NCP filed her final submission, requesting that the allegations against **Meas Muth** be dismissed on the grounds that **Meas Muth** does not fall within the personal jurisdiction of the ECCC,<sup>29</sup> and (ii) the ICP filed his final submission of some 950 pages, requesting that **Meas Muth** be indicted for the charges set out in the submission (“OCP Submissions”).<sup>30</sup>
22. On 24 November 2017, in answer to another Defence request, I granted the Defence a further 20 days to submit their response, due in particular to the length of the ICP's final submission.<sup>31</sup>
23. On 12 April 2018, the Defence filed their response to the OCP's Submissions, requesting the CIJs to permanently stay the proceedings with full prejudice, because the Defence considered it highly probable that there will be insufficient funds to take the proceedings against **Meas Muth** to an end. Alternatively, the Defence requested the CIJs to issue a dismissal order.<sup>32</sup>
24. On 13 December 2017 and 24 July 2018, the PTC issued decisions on two annulment requests filed by the Defence regarding allegedly torture-tainted material, dismissing both applications (for the annulment of allegedly defective WRIs), finding that the impugned WRIs were not defective.<sup>33</sup>
25. On 6 August 2018, the Defence filed a request to supplement their response to the ICP's final submissions following the issue by the PTC of its *Considerations on the*

<sup>27</sup> **D256/4**, *Meas Muth's Request for Reconsideration of the International Co-Investigating Judge's Decision on Schedule of Prosecution's Final Submission and Defence Response*, 28 September 2017, p. 7.

<sup>28</sup> **D256/5**, *Decision on Meas Muth's Request for Reconsideration on Schedule of Defence Response*, 5 October 2017, para. 14.

<sup>29</sup> **D256/6**, *Final Submission Concerning Meas Muth pursuant to Internal Rule 66*, 14 November 2017, para. 37.

<sup>30</sup> **D256/7**, *International Co-Prosecutor's Rule 66 Final Submission*, 14 November 2017, para. 1136.

<sup>31</sup> **D256/9**, *Decision on Meas Muth's Request for Extension of Deadline to Respond to International Co-Prosecutor's Final Submission*, 24 November 2017, para. 18.

<sup>32</sup> **D256/11**, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 April 2018, paras 736-740.

<sup>33</sup> **D253/1/8**, *Decision on Meas Muth's Request for Annulment of D114/164, D114/167, D114/170 and D114/171*, 13 December 2017, paras 29-39, p. 15; **D257/1/8**, *Decision on Meas Muth's Application for the Annulment of Torture-Derived Written Records of Interview*, 24 July 2018, paras 29-41, p. 14.



*International Co-Prosecutor's Appeal of Closing Order (Reasons)* in Case 004/1 ("Supplemental Response Request").<sup>34</sup> The ICP filed his response to this request on 20 August 2018.<sup>35</sup>

26. On 22 August 2018, I declared the Supplemental Response Request partly moot, and denied the remainder thereof.<sup>36</sup>
27. On 17 September 2018, the CIJs registered a disagreement regarding the issuance of separate and opposing closing orders.

## 2 PRELIMINARY MATTERS

### 2.1 PTC considerations in Case 004/1 and their impact on this Closing Order

28. In its considerations on the ICP's appeal against the Closing Order in Case 004/1,<sup>37</sup> the PTC and/or its international judges made a number of findings which in theory could have affected the content of this Closing Order. For brevity's sake, reference to my arguments in the Case 004/2 Closing Order shall suffice, in which I addressed these matters.<sup>38</sup>

### 2.2 Defence request for a permanent stay of proceedings

29. The Defence submit that only a permanent stay of proceedings with full prejudice can guarantee **Meas Muth's** fair trial rights in light of the ECCC's budgetary situation.<sup>39</sup> The CIJs have already stated their views regarding the budgetary situation in their decision of 11 August 2017 and remain actively seised of the matter.<sup>40</sup> The PDG moreover reaffirmed their deep and ongoing commitment to the proper funding of the Court at their meeting with the CIJs on 20 June 2018. Once a closing order is issued,

<sup>34</sup> **D256/12**, *Meas Muth's Request for Leave to Supplement His Response to the International Co-Prosecutor's Final Submission*, 6 August 2018.

<sup>35</sup> **D256/13**, *International Co-Prosecutor's Response to Meas Muth's Request for Leave to Supplement His Response to the International Co-Prosecutor's Final Submission*, 20 August 2018.

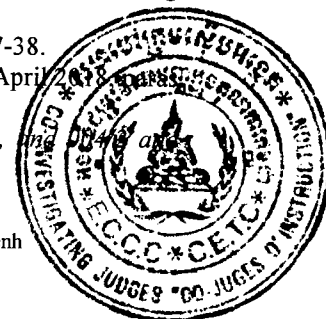
<sup>36</sup> **D256/14**, *Decision on Meas Muth's Request for Leave to Supplement His Response to the International Co-Prosecutor's Final Submission*, 22 August 2018.

<sup>37</sup> **Case File No. 004/1-D308/3/1/20**, *Considerations on the International Co-Prosecutor's Appeal of Closing Order (Reasons) (PTC)*, 28 June 2018.

<sup>38</sup> **Case File No. 004/2-D360**, [Redacted] *Closing Order (Indictment)*, 16 August 2018, paras 17-38.

<sup>39</sup> **D256/11**, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 April 2017, paras 14-69.

<sup>40</sup> **D249/6**, *Combined Decision on the Impact of the Budgetary Situation on Cases 003, 004, Related Submissions by the Defence for Yim Tith*, 11 August 2017.



the CIJs are *functus officio*, and it will be for the PTC, TC and SCC judges to safeguard fair trial rights.<sup>41</sup>

### 2.3 Standard of proof

30. While the Defence make submissions to the contrary,<sup>42</sup> it is settled case law that the standard of proof for a decision on an indictment is one of probability.<sup>43</sup>

### 2.4 ICP request to indict for crimes alleged but not charged

31. While the ICP requests the CIJs to do so,<sup>44</sup> the CIJs have made it clear that it is impermissible to indict for crimes alleged but not charged.<sup>45</sup>

## 3 APPLICABLE LAW

### 3.1 Personal Jurisdiction at the ECCC

32. Under Article 1 of the ECCC Agreement:

“[t]he purpose of the Agreement is to regulate the cooperation between the United Nations and the Royal Government of Cambodia in bringing to trial senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979.”

33. Article 1 of the ECCC Law on the basis of the ECCC Agreement,<sup>46</sup> states:

“The purpose of this law is to bring to trial senior leaders of Democratic Kampuchea and those who were the most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognised by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979.”

<sup>41</sup> **D249/6**, *Combined Decision on the Impact of the Budgetary Situation on Cases 003, 004, and 004/2 and Related Submissions by the Defence for Yim Tith*, 11 August 2017, para. 18; **Case File No. 004/2-D360/3**, [Public] *Decision on Ao An's Urgent Request for Redaction and Interim Measures*, 5 September 2018, paras 6, 13; **Case File No. 004/2-D360**, [Redacted] *Closing Order (Indictment)*, 16 August 2018, paras 44-45.

<sup>42</sup> **D256/11**, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 April 2018, paras 82-108; **D256/12**, *Meas Muth's Request for Leave to Supplement His Response to the International Co-Prosecutor's Final Submission*, 6 August 2018, para. 19(b).

<sup>43</sup> **D261**, *Closing Order (Reasons) in Case 004/1*, 10 July 2017, para. 2.

<sup>44</sup> **D256/7**, *International Co-Prosecutor's Rule 66 Final Submission*, 14 November 2017, paras 1062-1064.

<sup>45</sup> **D261**, *Closing Order (Reasons) in Case 004/1*, 10 July 2017, para. 245; **Case File No. 004/2-D360**, [Redacted] *Closing Order (Indictment)*, 16 August 2018, para. 47.

<sup>46</sup> Article 2 of the ECCC Agreement.





34. Article 2 of the ECCC Law re-iterates that the ECCC shall be established to bring to trial “*senior leaders of Democratic Kampuchea and those who were most responsible for the crimes [...] that were committed during the period from 17 April 1975 to 6 January 1979.*”
35. The SCC has interpreted the terms “*senior leaders of Democratic Kampuchea and those who were most responsible*” as referring to two categories, namely, senior leaders of the Khmer Rouge who are among the most responsible, as well as non-senior leaders of the Khmer Rouge who are also among the most responsible. Both categories of persons must be Khmer Rouge officials *and* among the most responsible in order for the ECCC to properly exercise personal jurisdiction; the criteria are thus cumulative, not disjunctive.<sup>47</sup>
36. The SCC also pronounced itself on the jurisdictional nature of Article 1 of the ECCC Law. In this regard, the SCC found that the question of whether an accused is a Khmer Rouge official “*involves a question of historical fact that is intelligible, precise, and leaves little or no room for discretion of the Trial Chamber,*” and is therefore a justiciable issue covered by the personal jurisdiction of the ECCC.<sup>48</sup>
37. Conversely, with respect to the terms ‘senior leaders’ and ‘most responsible’, the SCC found that these two categories were not jurisdictional criteria *stricto sensu*, but merely described the outlines of the prosecution and investigation policies to be employed by the OCP and, independently, by the OCIJ. It found them to be in principle unfettered by any strict rules of interpretation and in essence non-justiciable before the TC or SCC, short of a showing of abuse of discretion through bad faith or unsound professional judgment.<sup>49</sup> The CIJs already expressed their own joint view of the interpretation and nature of this criterion in the Case 004/1 *Closing Order (Reasons)*;<sup>50</sup> the same applies in this case.

<sup>47</sup> Case File No. 001-F28, *Appeal Judgement of Case 001*, 3 February 2012, para. 57.

<sup>48</sup> Case File No. 001-F28, *Appeal Judgement of Case 001*, 3 February 2012, para. 61.

<sup>49</sup> Case File No. 001-F28, *Appeal Judgement of Case 001*, 3 February 2012, paras 79–81.

<sup>50</sup> D261, *Closing Order (Reasons) in Case 004/1*, 10 July 2017, paras 9-10.



*Criminal law principles – the effect of ‘in dubio pro reo’ and strict construction*

38. Among the factors to be considered for the exercise of discretion are the principles of *in dubio pro reo* and of strict construction of the criminal law. I refer to the *Closing Order (Reasons)* in Case 004/1 for the detailed argument in this respect.<sup>51</sup>

*Criteria for the exercise of discretion – decision-making in the DK structures*

39. I note that by adopting the definition laid out in its judgement in Case 001, the SCC also implicitly held that there is no merit in any historical-political contention that the negotiations around the establishment of the ECCC led to a joint and binding understanding that only a certain finite number of (named) individuals were to be under the Court’s jurisdiction. The selection of persons to be investigated and indicted was and is purely a matter for the discretion of the OCP and OCIJ, and based entirely on the merits of each individual case. For the details regarding the exercise of this discretion, I refer to the Case 004/1 *Closing Order (Reasons)*.<sup>52</sup>

**3.2 Crimes under the jurisdiction of the ECCC**

40. National and international crimes under the jurisdiction of the ECCC are listed in Articles 3 to 8 of the ECCC Law. This section will only summarise the law relevant to the crimes alleged and charged against **Meas Muth**.

**3.2.1 International crimes**

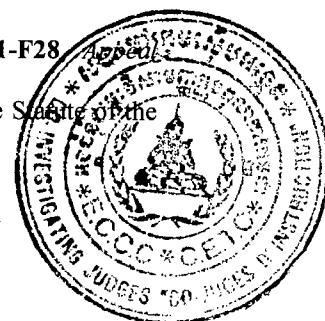
41. The sources of applicable international law during the relevant period are international conventions, customary international law, and general principles of law recognised by the community of nations.<sup>53</sup> While the jurisprudence of the *ad hoc* tribunals established since the 1990s is not binding in proceedings before the ECCC,<sup>54</sup> the Chambers of the ECCC have relied heavily on their holdings in relation to elements of crimes and modes of liability, the SCC noting, however, that chambers are obliged to determine that such

<sup>51</sup> **D261**, *Closing Order (Reasons) in Case 004/1*, 10 July 2017, paras 26-36.

<sup>52</sup> **D261**, *Closing Order (Reasons) in case 004/1*, 10 July 2017, paras 37-41.

<sup>53</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, paras 17-18; **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, para. 92.

<sup>54</sup> **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, para. 97, *citing* Article 38 of the Statute of the International Court of Justice.



holdings were applicable during the temporal jurisdiction of the ECCC and were foreseeable and accessible to the charged persons at the time relevant to the charges.<sup>55</sup>

### *Crimes against humanity*

42. Article 5 of the ECCC law gives the ECCC jurisdiction over the crimes against humanity, which it defines as “*any acts committed as part of a widespread or systematic attack directed against any civilian population, on national, political, ethnical, racial or religious grounds*” such as murder, extermination, enslavement, imprisonment, torture, rape, persecutions on political, racial, and religious grounds, and other inhumane acts.
43. These crimes against humanity, with the exception of rape, were part of customary international law between 1975 and 1979.<sup>56</sup> With regard to rape, the SCC held that it was not a distinct crime against humanity between 1975 and 1979, the period covered by the ECCC jurisdiction.<sup>57</sup> However, the ECCC has jurisdiction over rape as an act of torture, when all the other elements of torture are satisfied,<sup>58</sup> and as an act amounting to other inhumane acts.<sup>59</sup>

### *Chapeau elements of crimes against humanity*

44. ***Existence of an attack*** – An attack is a course of conduct involving a series of acts of violence, which is not strictly limited to the use of armed force, and may include

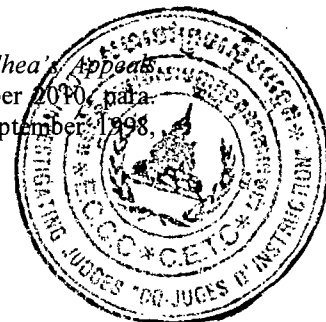
<sup>55</sup> **Case File No. 001-F28, Appeal Judgement**, 3 February 2012, para. 97.

<sup>56</sup> **Murder: Case File No. 002-E313, Judgement**, 7 August 2014, para. 411; **Extermination: Case File No. 002-E313, Judgement**, 7 August 2014, para. 415; **Enslavement: Case File No. 001-E188, Judgement**, 26 July 2010, para. 342; **Imprisonment: Case File No. 001-E188, Judgement**, 26 July 2010, para. 347; **Torture: Case File No. 001-E188, Judgement**, 26 July 2010, para. 353; **Case File No. 001-F28, Appeal Judgement**, 3 February 2012, paras 195-205; **Persecution on Political Grounds: Case File No. 002-E313, Judgement**, 7 August 2014, para. 426; **Case File No. 001-F28, Appeal Judgement**, 3 February 2012, para. 225; **Other Inhumane Acts: Case File No. 002-E313, Judgement**, 7 August 2014, para. 435.

<sup>57</sup> **Case File No. 001-F28, Appeal Judgement**, 3 February 2012, paras 180-183.

<sup>58</sup> **Case File No. 001-F28, Appeal Judgement**, 3 February 2012, paras 207-208, 213.

<sup>59</sup> **Case File No. 002-D427/2/12, Pre-Trial Chamber Decision on Ieng Thirith's and Nuon Chea's Appeals Against the Closing Order**, order 11(2); **Case File No. 002-D427, Closing Order**, 15 September 2010, para. 1433; *see also Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 688.



mistreatment of the civilian population.<sup>60</sup> An attack on the civilian population is a different concept from that of an armed conflict.<sup>61</sup>

45. ***Widespread or systematic nature of the attack*** – The ‘widespread’ requirement refers to the large-scale nature of the attack and the number of victims, whereas the ‘systematic’ element refers to the organised nature of the acts of violence.<sup>62</sup> Proof of either the widespread or systematic character of the attack is sufficient to satisfy this *chapeau element* of crimes against humanity.<sup>63</sup>
46. ***Directed against any civilian population*** – The attack must be primarily directed against a civilian population.<sup>64</sup> It is not necessary to show that the entire population of a geographic entity was subject to the attack. It is sufficient that enough individuals were targeted in the course of the attack or that they were targeted in such a way as to indicate that the attack was in fact directed against a civilian ‘population’ rather than against a limited and randomly selected number of individuals.<sup>65</sup> The population subject to the attack must be predominantly civilian in nature.<sup>66</sup> Traditionally, the presence, within the civilian population, of individuals who do not qualify as civilians does not necessarily deprive the population of its civilian character.<sup>67</sup> However, while the Defence submit otherwise,<sup>68</sup> and as I have already notified the parties, I consider that an attack by a state or organisation against its own armed forces amounts to an attack against a civilian population, except insofar as the attacked armed forces were

<sup>60</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 178; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 298.

<sup>61</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 178; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 299.

<sup>62</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 179; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 300.

<sup>63</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 179; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 300.

<sup>64</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 182; *Prosecutor v. Kunarac et al.*, *Judgement*, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, paras 91-92.

<sup>65</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, paras 182; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 303.

<sup>66</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 738, 740; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 183; *Prosecutor v. Dragomir Milošević*, *Judgement*, ICTY Appeals Chamber (IT-98-29/1-A), 12 November 2009, paras 50-51.

<sup>67</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 740; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 183; *Prosecutor v. Galić*, *Judgement*, ICTY Appeals Chamber (IT-98-29/1-A), 30 November 2006, paras 136-138.

<sup>68</sup> D256/11, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 April 2015, paras 134-136.



allied with or providing militarily relevant support to an opposing side to an armed conflict.<sup>69</sup>

47. ***On national, political, ethnical, racial or religious grounds*** – Article 5 of the ECCC Law requires that the attack as defined above be carried out on national, political, ethnical, racial, or religious, but not necessarily on discriminatory grounds.<sup>70</sup> This is a jurisdictional requirement that applies to the attack in general, and not to the underlying offences.<sup>71</sup> It is, therefore, not necessary to prove discriminatory intent for all the underlying crimes against humanity. Discriminatory intent is only a requirement in relation to the underlying crime of persecution.<sup>72</sup>
48. ***Nexus between the acts of the charged person and the attack*** – The acts of the perpetrator must, by their nature or consequences, be objectively part of the attack against the civilian population.<sup>73</sup>
49. ***Requisite knowledge*** – A perpetrator must have known of the attack on the civilian population and that his or her acts were part of it. He or she is not required to be aware of the details of the attack or share the purpose or goals of the broader attack.<sup>74</sup>
50. ***No nexus with armed conflict*** – I previously found that the existence of a nexus between crimes against humanity and an armed conflict was no longer a constitutive element of crimes against humanity by 1975.<sup>75</sup> The PTC, TC, and SCC all reached the same finding.<sup>76</sup>

<sup>69</sup> **D191/18**, *Notification on the Interpretation of 'Attack against the Civilian Population' in the Context of Crimes against Humanity with Regard to a State's or Regime's Own Armed Forces*, 7 February 2017, para. 69.

<sup>70</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 742, 744-745; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 188.

<sup>71</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, paras 744-745; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 188; **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, para. 238.

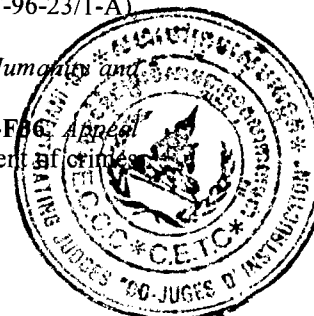
<sup>72</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 744; **Case File No. 002-E313**, *Judgement*, 7 August 2014, paras 188-189; **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, para. 238. *See also Prosecutor v. Akayesu*, *Judgement*, ICTR Appeals Chamber (ICTR-96-4-A), 1 June 2001, paras 465-466.

<sup>73</sup> **Case File No. 002-F36**, *Appeal Judgement*, paras 753-754; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 190; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 318; *Prosecutor v. Dragoljub Kunarac et al.*, *Judgement*, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, para. 99.

<sup>74</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 191; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 319; *Prosecutor v. Kunarac et al.*, *Judgement*, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, paras 102-103.

<sup>75</sup> **D87/2/1.7/1**, *Decision on Meas Muth's Request for Clarification Concerning Crimes Against Humanity and the Nexus with Armed Conflict*, 5 April 2016.

<sup>76</sup> *See Case File No. 002-E313*, *Judgement*, 7 August 2014, para. 177 and **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, paras 721. The PTC did find in 2011 that the nexus was an element of crimes



*Elements of the crimes against humanity listed in Article 5 of the ECCC Law*

51. The elements of **murder** are:

- a. *Actus Reus*: an act or omission resulting in and contributing substantially to the death of the victim.<sup>77</sup>
- b. *Mens Rea*: the intent of the perpetrator to either kill or cause serious bodily harm with reasonable knowledge that such act or omission would likely lead to the death of the victim.<sup>78</sup>

52. The elements of **extermination** are :

- a. *Actus Reus*: an act, omission, or a combination of both, resulting in the death of persons on a massive scale.<sup>79</sup> There is no minimum number of victims required to establish extermination.<sup>80</sup> The assessment of the ‘massive scale’ requirement must be made on a case-by-case basis, having regard to such factors as the time and place of the killings, the selection of the victims and the manner in which they were targeted, and whether the killings were aimed at the collective group rather than the victims in their individual capacity.<sup>81</sup>
- b. *Mens Rea*: the intent to kill persons on a massive scale, or to inflict serious bodily injury or create living conditions calculated to bring about the destruction of a

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against humanity between 1975 and 1979, see **Case File No. 002-D427/3/15**, *Decision on Appeal by Nuon Chea and Ieng Thirith against the Closing Order*, 15 February 2011, para. 144 and **Case File No. 002-D427/1/30**, *Decision on Ieng Sary's Appeal against the Closing Order*, 11 April 2011, para. 311. However, following an appeal against my decision of 5 April 2016 (**D87/2/1.7/1**, *Decision on Meas Muth's request for clarification concerning crimes against humanity and the nexus with armed conflict*, 5 April 2016), the PTC has reconsidered its previous stance and found that no nexus was required, thereby aligning itself with the other ECCC chambers, see **D87/2/1.7/1/1/7**, *Decision on Meas Muth's Appeal against the International Co-Investigating Judge's Decision on Meas Muth's Request for Clarification concerning Crimes against Humanity and the Nexus with Armed Conflict*, 10 April 2017.

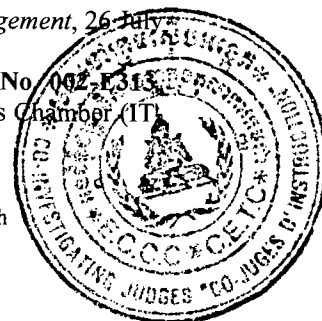
<sup>77</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 412; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 331.

<sup>78</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, paras 391, 409, 410; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 412; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 333.

<sup>79</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, paras 520; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 416; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 334.

<sup>80</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 416; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 336.

<sup>81</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, paras 525, 527; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 416; *Prosecutor v. Lukić and Lukić*, *Judgement*, ICTY Appeals Chamber (IT/98-32/1-A), 4 December 2012, para. 538.



numerically significant part of the population.<sup>82</sup> The SCC took the position that the aim of extermination is to eliminate individuals that are part of a group and that it is thus incompatible with the notion of *dolus eventualis*. It then clarified, however, that knowledge that the *actus reus* would cause certain death is not required, but rather, what is necessary is “a showing that the killing of members of a group is what was desired by the perpetrator, irrespective of whether he was certain that this would actually happen. Mere knowledge that deaths may occur would be insufficient.”<sup>83</sup>

53. The elements of **enslavement** are :

- a. *Actus Reus*: the exercise of any or all powers attaching to ownership over a person.<sup>84</sup> Forced or involuntary labour may constitute enslavement.<sup>85</sup> Proof of ill-treatment is not necessary to find the existence of the crime of enslavement.<sup>86</sup>
- b. *Mens Rea*: the perpetrator must have intentionally exercised a power attaching to ownership over a person.<sup>87</sup>

54. The elements of **imprisonment** are :

- a. *Actus Reus*: the arbitrary deprivation of liberty without due process of law, or based on national legal provisions that violate international law.<sup>88</sup> Not every minor infringement of the right to liberty amounts to imprisonment, and such

<sup>82</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, paras 520-522, citing *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 503; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 338.

<sup>83</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 520.

<sup>84</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 342.

<sup>85</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 344; *Prosecutor v. Krnojelac*, Judgement, ICTY Trial Chamber (IT-97-25-T), 15 March 2002, para. 359; *Prosecutor v. Kunarac et al.*, Judgement, ICTY Trial Chamber (IT-96-23-T & IT-96-23/1-T), 22 February 2001, paras 542-543.

<sup>86</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 344; *Prosecutor v. Kunarac et al.*, Judgement, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, para. 123, citing *US v. Oswald Pohl and Others*, Judgement, 3 November 1947, reprinted in *Trials of War Criminals before the Nuernberg Military Tribunal under Control Council No. 10*, Vol. 5, (1997), p. 958 at p. 970.

<sup>87</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 345; *Prosecutor v. Kunarac et al.*, Judgement, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, para. 122.

<sup>88</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, paras 347-348.



deprivation must be of similar gravity and seriousness as the other crimes against humanity set forth in Article 5 of the ECCC Law.<sup>89</sup>

- b. *Mens Rea*: the perpetrator intended to arbitrarily deprive the individual of his or her liberty, or acted with the reasonable knowledge that his or her actions were likely to cause the arbitrary deprivation of liberty.<sup>90</sup>

55. The elements of **torture** are:

- a. *Actus Reus*: any act causing severe pain or suffering, considering both the objective severity of harm inflicted and subjective characteristics of the victim, whether physical or mental, committed or instigated by a public official.<sup>91</sup>
- b. *Mens Rea*: the perpetrator must have intended to inflict severe pain or suffering on the victim.<sup>92</sup>
- c. The act must have been for such purposes as obtaining information or a confession, punishment, or intimidation.<sup>93</sup>

56. The SCC has held that **rape** may amount to torture, when all the other elements of the crime of torture are also established.<sup>94</sup> The TC in Case 001, endorsed by the SCC,<sup>95</sup> characterised rape as:

- a. *Actus Reus*: the sexual penetration, however slight, of the vagina or anus of the victim by a penis or any other object; or the mouth of the victim by a penis, where such sexual penetration occurs without the consent of the victim. Consent, for this purpose, must be given voluntarily, as a result of the victim's free will, assessed in the context of the surrounding circumstances.<sup>96</sup>

<sup>89</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 349, citing *Prosecutor v. Ntagerura et al*, *Judgement*, ICTR Trial Chamber (ICTR-99-46-T), 25 February 2004, para. 702. *Contra Prosecutor v. Krnojelac*, *Judgement*, ICTY Trial Chamber (IT-97-25-T), 15 March 2002, para. 112.

<sup>90</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 350; *Prosecutor v. Krnojelac*, *Judgement*, ICTY Trial Chamber (IT-97-25-T), 15 March 2002, para. 115.

<sup>91</sup> **Case File No. 002-E188**, *Judgement*, 26 July 2010, para. 355; **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, paras 195-196.

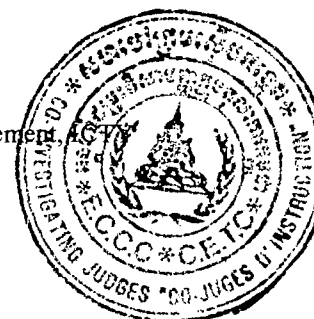
<sup>92</sup> **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, paras 195-196.

<sup>93</sup> **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, paras 195-196.

<sup>94</sup> **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, paras 207-208, 213.

<sup>95</sup> **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, para. 208.

<sup>96</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 362; *Prosecutor v. Kunarac et al*, *Judgement*, Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, para. 127.





- b. *Mens Rea*: the perpetrator must have acted with the intent to effect this sexual penetration, in the knowledge of the lack of consent of the victim.<sup>97</sup>

57. The elements of the crime of **persecution** are:

- a. *Actus Reus*: an act or omission which discriminates in fact and denies or infringes upon a fundamental right laid down in international customary law or treaty.<sup>98</sup> The discriminatory element in the *actus reus* is established when the victim is targeted due to membership of a group that is subjectively defined and consequently persecuted by the perpetrator on political, racial, or religious grounds.<sup>99</sup> The victim must actually belong to a sufficiently discernible political, racial, or religious group, such that persecutory consequences must occur for the group.<sup>100</sup> In this regard, the SCC has held that there is no discrimination when there is a mistake of fact by the perpetrator as to whether a victim actually belongs to the defined targeted group, or when the perpetrator targets victims irrespective of whether they fall under the discriminatory criterion or, in other words, when the targeting is 'indiscriminate'.<sup>101</sup> Persecution on political grounds takes into account the perpetrator's perspective when defining the group that is the object of persecution and thus does not require that the members of the targeted group hold common, or even any, political views.<sup>102</sup>
- b. Persecution may be committed through one or more of the other underlying crimes against humanity listed in Article 5 of the ECCC Law, as well as through other acts which are characterised by the same level of gravity or seriousness,

<sup>97</sup> Case File No. 001-E188, *Judgement*, 26 July 2010, para. 365.

<sup>98</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 667-668; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 257, 261-262, 267, 271-278; Case File No. 002-E313, *Judgement*, 7 August 2014, paras 427-428.

<sup>99</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 667, 678-679, 687, 695; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 272-273, 274, 276-277; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 428.

<sup>100</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 668; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 274-277; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 428.

<sup>101</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 277, see also paras 272-276.

<sup>102</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 668, 677-680; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 272-273.



including acts which are not necessarily international crimes in and of themselves.<sup>103</sup>

- c. *Mens Rea*: the deliberate perpetration of an act or omission with the intent to discriminate on political, racial, or religious grounds.<sup>104</sup> Even when the underlying acts constitute crimes under international law, the *mens rea* required for these crimes need not be established: it suffices to prove that the underlying act was carried out with the required discriminatory intent.<sup>105</sup>

58. The elements of **other inhumane acts** are:

- a. *Actus Reus*: an act or omission of the perpetrator causing serious bodily or mental suffering or injury or constituting a serious attack on human dignity.<sup>106</sup> The acts or omissions of the perpetrator must be of a nature and gravity similar to the other crimes against humanity enumerated under Article 5 of the ECCC Law, assessed on a case-by-case basis, with due regard to the individual circumstances of the case.<sup>107</sup> The effect of the suffering is not required to be long-term, although this may be a relevant factor for the determination of the seriousness of the act.<sup>108</sup>
- b. *Mens Rea*: the perpetrator must have deliberately performed the act or omission with the intent to inflict serious bodily or mental harm or commit a serious attack upon the human dignity of the victim at the time of the act or omission, or knew that the act or omission was likely to cause serious physical or mental suffering or a serious attack upon human dignity.<sup>109</sup>

59. Other inhumane acts existed in customary international law as a residual category of crimes against humanity by 1975.<sup>110</sup> The conduct underlying other inhumane acts need

<sup>103</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 261; *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 296; *Prosecutor v. Blaškić*, Judgement, ICTY Appeals Chamber (IT-95-14-A), 29 July 2004, para. 135.

<sup>104</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 427; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 229, 236, 240.

<sup>105</sup> *Prosecutor v. Popović et al.*, Judgement, ICTY Appeals Chamber (IT-05-88-A), 30 January 2015, para. 738.

<sup>106</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 580.

<sup>107</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 567, 586; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 438.

<sup>108</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 439; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 369.

<sup>109</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 580; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 437; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 371.

<sup>110</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 576.



not have been criminalised under international law at the time of commission.<sup>111</sup> It merely suffices that the conduct in question, taking into account the circumstances of the case at hand, satisfies the legal elements of other inhumane acts.<sup>112</sup> Accordingly, it is not necessary to stipulate any elements of the conduct that is alleged to amount to other inhumane acts.

60. It may, however, be necessary to establish the parameters of the underlying conduct in order to determine whether it was foreseeable and accessible to the charged person that they could be investigated and prosecuted for such conduct.<sup>113</sup> The *nullum crimen sine lege* principle is respected if the underlying conduct violates a basic right of the victims and is of a similar nature and gravity to the other crimes against humanity, which requires a case-by-case analysis of the conduct in question.<sup>114</sup>
61. To comply with the requirements of legal certainty, the comparison of the nature and gravity of the conduct against those of the other enumerated crimes against humanity is undertaken in accordance with the doctrine of *ejusdem generis*.<sup>115</sup> As for the nature of conduct that may constitute an inhumane act, reference can be made to serious breaches of international law regulating armed conflict from 1975 to 1979, including the grave breaches provisions of the Geneva Conventions 1949, or serious violations of the fundamental human rights norms protected under international law at the time.<sup>116</sup>
62. Instances of enforced disappearance,<sup>117</sup> rape,<sup>118</sup> physical abuse of prisoners,<sup>119</sup> inhumane conditions of detention,<sup>120</sup> and forced marriage<sup>121</sup> have previously been

<sup>111</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 584.

<sup>112</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 589.

<sup>113</sup> Case File No. 004-D301/5, [Redacted] *Consolidated Decision on the Requests for Investigative Action Concerning the Crime of Forced Pregnancy and Forced Impregnation*, 13 June 2016, paras 51, 63.

<sup>114</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 586; see also Case File No. 004-D301/5, [Redacted] *Consolidated Decision on the Requests for Investigative Action Concerning the Crime of Forced Pregnancy and Forced Impregnation*, 13 June 2016, para. 64.

<sup>115</sup> *Ejusdem generis* is defined as “A canon of construction holding that when a general word or phrase follows a list of specifics, the general word or phrase will be interpreted to include only items of the same class as those listed.” (Black’s Law Dictionary, 9<sup>th</sup> Ed.).

<sup>116</sup> Case File No. 002-D427/3/15, *Decision on Appeals by Nuon Chea and Ieng Thirith against the Closing Order*, 15 February 2011, para. 164; Case File No. 004-D301/5, [Redacted] *Consolidated Decision on the Requests for Investigative Action Concerning the Crime of Forced Pregnancy and Forced Impregnation*, 13 June 2016, para. 63.

<sup>117</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, paras 444-448; *Prosecutor v. Kupreškić et al.* Judgement, ICTY Trial Chamber (IT-95-16-T), 14 January 2000, para. 566; *Prosecutor v. Brima et al.* Judgement, SCSL Appeals Chamber (SCSL-04-16-A), 22 February 2008, para. 184.

<sup>118</sup> Case File No. 002-D427/3/15, *Decision on Appeals by Nuon Chea and Ieng Thirith against the Closing Order*, 15 February 2011, para. 154; Case File No. 002-D427, *Closing Order*, 15 September 2010, para. 1433; *Prosecutor v Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 688.



found to be of the same nature and gravity as other enumerated crimes against humanity. I am not persuaded by the Defence submissions rejecting that forced marriage is subsumed under other inhumane acts, not least since the Defence acknowledges itself that the requirement of consent to marriage was enumerated in international human rights instruments at the time.<sup>122</sup>

*Genocide*

63. Article 4 of the ECCC Law, giving the ECCC jurisdiction over the crime of genocide, is based on Articles II and III of the Genocide Convention,<sup>123</sup> which were part of customary international law between 1975 and 1979.<sup>124</sup> In accordance with the *nullem crimen sine lege* principle and established jurisprudence, the definition of genocide applied in this Closing Order is the commission of any of the underlying acts set out in

<sup>119</sup> *Prosecutor v. Kvočka*, Judgement, ICTY Trial Chamber (IT-98-30/1-T), 2 November 2001, paras 208, 209.

<sup>120</sup> *Prosecutor v. Krnojelac*, Judgement, ICTY Trial Chamber (IT-97-25-T), 15 March 2002, para. 133.

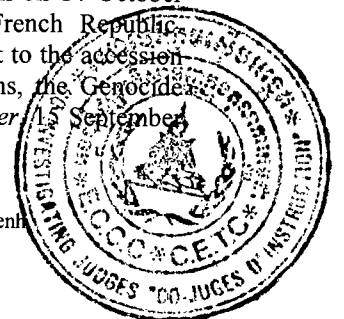
<sup>121</sup> **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1314.

<sup>122</sup> **D214**, *Meas Muth's Motion Against the Application of Forced Marriage as the Crime Against Humanity of an Other Inhumane Act*, 18 November 2016, para. 28. See **Case File No. 002-D427**, *Closing Order*, 15 September 2010, note 5195.

<sup>123</sup> Article 4 of the ECCC Law does not punish direct and public incitement to commit genocide or complicity in genocide, being paragraphs (c) and (e) of Article III of the Convention on the Prevention and Punishment of the Crime of Genocide ("Genocide Convention").

The definition of genocide contained in the English version of Article 4 of the ECCC Law could be interpreted as creating a non-exhaustive list of constitutive acts of genocide ("*such as*") and removing the reference to destroy (in whole or in part) a protected group "*as such*", both being in contradiction of the Genocide Convention and established jurisprudence. The French version of Article 4, by contrast, reflects the provisions of the Genocide Convention: "*On entend par crime de génocide, qui est imprescriptible l'un quelconque des actes ci-après, commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux, comme tel*". The Khmer version also more closely matches the text of the Genocide Convention in that it limits the constitutive acts of genocide to those listed in Article 4: "អំពើប្រល័យពូជសាសន៍ ដែលគ្មាន អាជ្ញាយុកាល គឺជាអំពើមួយក្នុងចំណោមអំពើដូចខាងក្រោមហើយដែលបានប្រព្រឹត្តក្នុងគោលបំណងបំផ្លិច បំផ្លាញទាំងស្រុង ឬមួយផ្នែកនៃក្រុមជាតិ ជាតិពន្ធុ ពូជសាសន៍ ឬសាសនាណាមួយ ដូចជា:" translated as "*The acts of genocide, which have no statute of limitations, mean any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group*". ECCC Agreement, Article 9 and ECCC Law, Article 4 also both provide that the ECCC's jurisdiction with respect to genocide is restricted to the crime "*as defined*" in the Genocide Convention. Therefore the definition applied in this Closing Order adheres to the definition in the French and Khmer versions of Article 4, the Genocide Convention, and established jurisprudence, see **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1311.

<sup>124</sup> *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion, ICJ Rep 15 (1951), p. 23; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 539; *Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 495; **Case File No. 002-D427/2/15**, *Decision on Appeals by Nuon Chea and Ieng Thirith Against the Closing Order*, 15 February 2011, para. 108. Cambodia acceded to the Genocide Convention on 14 October 1950 after acquiring sovereign autonomy pursuant to the Constitution of the Fourth French Republic. Cambodia's accession was accepted by the United Nations and no legal challenge with respect to the accession has been recorded. Following receipt of the requisite number of accessions and ratifications, the Genocide Convention entered into force on 12 January 1951, see **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1310.



Article 4 of the ECCC Law, committed with the specific intention to destroy, in whole or in part, a national, ethnical, racial or religious group, specifically targeted as such.<sup>125</sup>

### *Chapeau elements of genocide*

64. There is no requirement that the alleged conduct took place in the context of a manifest pattern of similar conduct.<sup>126</sup> Similarly, the existence of State (or other) policy or a plan to commit genocide is not an element of the crime of genocide<sup>127</sup> and there is no requirement that the alleged conduct formed part of a widespread or systematic attack on a civilian population.<sup>128</sup> Such factors may however support a finding of specific intent.<sup>129</sup>

### *The protected groups*

65. The ECCC has jurisdiction in respect of genocide directed against national, ethnical, racial and religious groups.<sup>130</sup> Only the four explicitly listed groups enjoy protection.<sup>131</sup>

<sup>125</sup> **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1312; *Prosecutor v. Rutaganda*, Judgement, ICTR Trial Chamber (ICTR-96-3-T), 6 December 1999, para. 49; *Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, paras 498-499; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 542.

<sup>126</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, paras 223-224.

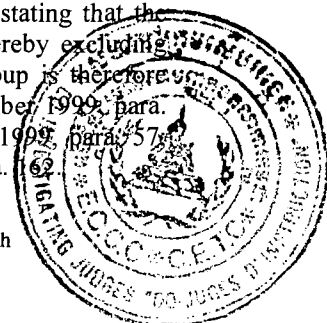
<sup>127</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Appeals Chamber (IT-05-88-A), 30 January 2015, paras 430, 436, 440; *Prosecutor v. Rutaganda*, Judgement, ICTR Appeals Chamber (ICTR-96-3-A), 26 May 2003, para. 525.

<sup>128</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 223; *Prosecutor v. Jelisić*, Judgement, ICTY Appeals Chamber (IT-95-10-A), 5 July 2001, para. 48.

<sup>129</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 223; *Prosecutor v. Jelisić*, Judgement, ICTY Appeals Chamber (IT-95-10-A), 5 July 2001, para. 48; *Prosecutor v. Rutaganda*, Judgement, ICTR Appeals Chamber (ICTR-96-3-A), 26 May 2003, para. 525.

<sup>130</sup> ECCC Law, Article 4; Genocide Convention, Articles II, III.

<sup>131</sup> *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 554; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 809; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 541; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 98; *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, paras 60-61; *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 311. *Although see Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 516 where an ICTR trial chamber stated that the Genocide Convention was intended to protect “*any stable and permanent group*” (emphasis added) in response to the question of whether genocide is limited to acts against the four groups expressly mentioned. More expansive findings in this regard have otherwise been limited to stating that the Genocide Convention’s field of application is restricted to stable and permanent groups, thereby excluding certain “*mobile groups*” but stopping short of concluding that *any* stable and permanent group is therefore protected. *See Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para. 69; *Prosecutor v. Rutaganda*, Judgement, ICTR Trial Chamber (ICTR-96-3-T), 6 December 1999, para. 57; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 62.



66. There are no generally accepted definitions of the four protected groups.<sup>132</sup> The jurisprudence of the *ad hoc* tribunals evinces the development of a hybrid, case-by-case test to determine whether a victim (or targeted group) falls within one of the protected groups.<sup>133</sup> Firstly, there should be reference to the objective particulars of the relevant political, social, historical and cultural context.<sup>134</sup> However, as a targeted group may not have precisely defined boundaries and may have been characterised by the perpetrator(s) in a different manner to the conceptions of the group shared generally, or by parts of society,<sup>135</sup> the subjective perceptions of the victim and the perpetrator(s) with respect to the victim's membership of the targeted group should also be considered.<sup>136</sup>
67. The targeted group must have a particular positive identity and therefore cannot be defined negatively.<sup>137</sup> If more than one group is targeted for destruction, the elements of genocide must be satisfied in relation to each group.<sup>138</sup>

*Elements of the underlying acts of genocide listed in Article 4 of the ECCC Law*

68. Article 4 of the ECCC Law sets out the underlying acts of genocide in respect of which the *actus reus* and *mens rea* must be established (in addition to specific intent for genocide,<sup>139</sup> as set out below). Killing members of the group is the only underlying act relevant in Case 003.

<sup>132</sup> *Prosecutor v. Rutaganda*, Judgement, ICTR Trial Chamber (ICTR-96-3-T), 6 December 1999, para. 56; *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 65; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 161; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, paras 555-556; *see also Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para. 70, although ICTR trial chambers have, on occasion, attempted to define the four protected groups, *see Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, paras 512-515; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 98.

<sup>133</sup> *Although see Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para. 70 in which an apparently entirely subjective test was adopted.

<sup>134</sup> *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 317; *Prosecutor v. Rutaganda*, Judgement, ICTR Trial Chamber (ICTR-96-3-T), 6 December 1999, paras 56-58; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 557.

<sup>135</sup> *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 65; *Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para. 70.

<sup>136</sup> *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 317; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 161; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 557.

<sup>137</sup> *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 5.

<sup>138</sup> *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 5.

<sup>139</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 20.



69. The elements of **killing members of the group** are equivalent to those of murder as a crime against humanity.<sup>140</sup> The death of a victim can be established by circumstantial evidence provided the only reasonable inference that can be drawn from such evidence is that the victim is dead<sup>141</sup> and, as such, proof (albeit by inference) of a result is required.<sup>142</sup> A numeric assessment of the numbers killed is not required to establish the *actus reus*.<sup>143</sup>

<sup>140</sup> See above, para. 51. See *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, paras 810, 787-788 where the ICTY Trial Chamber, in finding that the elements of killing members of a group were equivalent to those of murder, held that the elements of murder as a violation of the laws or customs of war (under Article 3 of the ICTY Statute) and as a crime against humanity (under Article 5 of the ICTY Statute) are the same. See also *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 542. “Killing” has been interpreted as intentional killing (see *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 319; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 103), homicide committed with the intent to cause death (see *Prosecutor v. Seromba*, Judgement, ICTR Trial Chamber (ICTR-2001-66-I), 13 December 2006, para. 317; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 155), and murder (see *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, paras 810, 787-788; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 542). In *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, at note 2918, the Trial Chamber refers approvingly to *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 319, *Prosecutor v. Seromba*, Judgement, ICTR Trial Chamber (ICTR-2001-66-I), 13 December 2006, para. 317, and *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 155, indicating equivalence in elements despite differing nomenclature. With respect to *mens rea* the English version of the Genocide Convention prohibits “killing”, which is neutral with respect to the intentionality of the act, whereas the French version prohibits “meurtre”, which amounts to intentional homicide. The ICTR chambers adopted the interpretation most favourable to the accused, being “meurtre”, thereby requiring an intention to kill or cause death, but no premeditation (see *Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, paras 500-501; *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 319; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Appeals Chamber (ICTR-95-1-A), 1 June 2001, para. 151). The ICTY chambers have assumed an equivalent position by equating “killing” with “murder” and in doing so approved the ICTR’s approach (see *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 542; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 810; *Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para. 63; *Prosecutor v. Blagojević and Jokić*, Judgement, ICTY Trial Chamber (IT-02-60-T), 17 January 2005, para. 642). In any case, it has been observed that, in the context of genocidal intent, there is “virtually no difference” between killing and *meurtre* (see *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Appeals Chamber (ICTR-95-1-A), 1 June 2001, para. 151).

<sup>141</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, paras 789, 810; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, paras 446, 542; *Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, para. 260.

<sup>142</sup> *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 542.

<sup>143</sup> *Prosecutor v. Karadžić*, Rule 98 bis Judgement, ICTY Appeals Chamber (IT-95-5/18-AR98bis.1), 11 July 2019, para. 23.



*Genocidal intent*

70. In addition to possessing the *mens rea* required in relation to the relevant underlying act, as set out above, a perpetrator must possess the specific intent to destroy, in whole or in part, the relevant protected group, as such.<sup>144</sup>
71. **‘to destroy’** – Genocide only encompasses acts intended to amount to biological or physical destruction of a protected group, in whole or in part.<sup>145</sup> Accordingly, acts that attack only the cultural or sociological characteristics of a protected group in order to deny that group its own identity (for example the destruction of religious buildings or houses belonging to members of the group) do not fall within the definition of genocide. Such acts may however be evidence from which the intention to physically or biologically destroy can be inferred.<sup>146</sup>
72. **‘in whole or in part’** – This phrase refers to the intention to destroy *the entirety or part* of a protected group: the destruction of part of a group need not be accompanied by the intention to destroy the whole group.<sup>147</sup> In the absence of guidance in the Genocide Convention or their statutes the *ad hoc* tribunals have formulated the intention to destroy a group in part as the intended destruction of at least a “*substantial*” part of the group, significant enough to have an impact on the group as a whole, bearing in mind the context in which the alleged conduct occurs.<sup>148</sup>

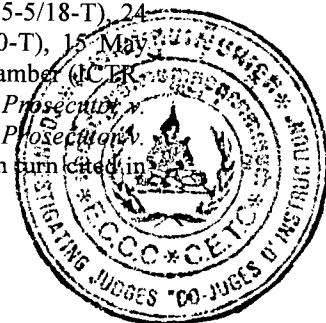
<sup>144</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 808; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 549; *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 20.

<sup>145</sup> *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 315; *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 25; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 822; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 553.

<sup>146</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 25; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 822; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 553.

<sup>147</sup> *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, paras 583-584.

<sup>148</sup> *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 64; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 590; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, ICJ, 26 February 2007, para. 198; *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, paras 8-9; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 831; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 555; *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 316. Although in *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, at para. 97, the language used is “*considerable number of individuals*”, in *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001 (at para. 64), citing *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999 (and in turn cited in





73. The targeted group can include military personnel, provided the military personnel were targeted because of their membership in a protected group.<sup>149</sup>
74. ‘*as such*’ – The underlying acts must be committed with the intention of destroying the targeted group as a separate and distinct entity to the individual victims: the ultimate victim of the crime is the group.<sup>150</sup> Individual victims must be *targeted because* they are a member of the group (but not necessarily *solely* because of such membership) and therefore knowledge of such membership alone is insufficient.<sup>151</sup>

#### *Grave breaches of the Geneva Conventions*

75. Under Article 6 of the ECCC Law, the ECCC has subject-matter jurisdiction over grave breaches of the four Geneva Conventions of 1949 (“Geneva Conventions”).
76. The Geneva Conventions, *inter alia*, require the criminalisation of the offences listed under Article 6.<sup>152</sup> Cambodia, having ratified the Geneva Conventions on 8 December 1958, was a party to them during the ECCC’s temporal jurisdiction. Further, grave breaches of the Geneva Conventions formed part of customary international law between 1975 and 1979.<sup>153</sup> The prohibition and subsequent prosecution of the crimes

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the *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 316), the Trial Chamber uses “*substantial part*” and therefore it is clear that the *Kayishema* Trial Chamber did not intend to adopt a different standard, see *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, note 15, para. 9.

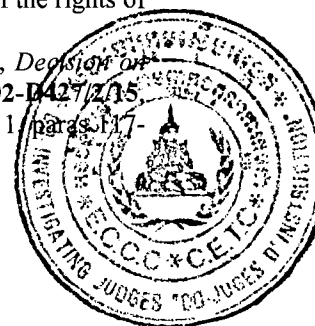
<sup>149</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 833; *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 226.

<sup>150</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 821; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 551; *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 61.

<sup>151</sup> *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 561; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 551; *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 61; *Prosecutor v. Niyitegeka*, Judgement, ICTR Appeals Chamber (ICTR-96-14-A), 9 July 2004, para. 53.

<sup>152</sup> All four Geneva Conventions prohibit wilful killing, torture or inhumane treatment, wilfully causing great suffering or serious injury to body or health, and destruction and serious damage to property, not justified by military necessity and carried out unlawfully and wantonly (Geneva Convention I, Articles 49-50; Geneva Convention II, Articles 50-51; Geneva Convention III, Articles 129-130; Geneva Convention IV, Articles 146-147). Geneva Convention III (Articles 129-130) prohibits wilfully depriving prisoners of war of the rights of fair and regular trial. Geneva Convention IV (Articles 146-147) prohibits wilfully depriving civilians of the rights of fair and regular trial, unlawful confinement of a civilian, and taking of civilian hostages.

<sup>153</sup> **Case File No. 001-E188**, Judgement, 26 July 2010, para. 405; **Case File No. 002-D427/1/30**, *Decision on Ieng Sary’s Appeal against the Closing Order*, 11 April 2011, paras 256-258; **Case File No. 002-D427/2/15**, *Decision on Appeals by Nuon Chea and Ieng Thirith Against the Closing Order*, 15 February 2011, paras 117-118. See also **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1316.



set out in Article 6 were accordingly foreseeable and accessible to **Meas Muth** between 1975 and 1979.<sup>154</sup>

77. The Defence argue that the ECCC does not have jurisdiction over grave breaches because the statute of limitations for such crimes has expired.<sup>155</sup> Both the TC and the PTC have previously ruled that no statute of limitations applies to grave breaches under Article 6,<sup>156</sup> and there is accordingly no doubt that the grave breaches of the Geneva Conventions under Article 6 are not statute-barred.

*Chapeau requirements of grave breaches of the Geneva Conventions*

78. **Existence of an international armed conflict** – Common Article 2 of the Geneva Conventions requires the existence of an international armed conflict, which exists whenever there is a resort to armed force between States, irrespective of whether the States recognise that a state of war exists.<sup>157</sup>
79. The Geneva Conventions apply from the inception of the armed conflict and beyond the cessation of the hostilities, until a general conclusion of peace is reached, and, to the whole territory of the States party to the conflict, irrespective of whether combat takes place there.<sup>158</sup>
80. **Nexus between the alleged crimes and the armed conflict** – The alleged crimes must be closely related to the armed conflict as a whole: it is not necessary to establish that

<sup>154</sup> **Case File No. 002-D427/1/30**, *Decision on Ieng Sary's Appeal against the Closing Order*, 11 April 2011, para. 257; **Case File No. 002-D427/2/15**, *Decision on Appeals by Nuon Chea and Ieng Thirith Against the Closing Order*, 15 February 2011, paras 119-121, 123; **Case File No. 001-E188**, *Judgement*, 26 July 2010, paras 404-408.

<sup>155</sup> **D256/11**, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 April 2018, paras 124-128; **D174/1/1**, *Meas Muth's Appeal Against the International Co-Investigating Judge's Decision to Charge Meas Muth with Grave Breaches of the Geneva Conventions and National Crimes and to Apply JCE and Command Responsibility*, 6 January 2016, paras 8-30.

<sup>156</sup> **Case File No. 002-E306/6**, *Decision on Defence Preliminary Objection Regarding a Statute of Limitations for Grave Breaches of the Geneva Conventions of 12 August 1949*, 31 October 2014, paras 8-12; **Case File No. 002-D427/1/30**, *Decision on Ieng Sary's Appeal against the Closing Order*, 11 April 2011, para. 73.

<sup>157</sup> Common Article 2 of the Geneva Conventions. **Case File No. 001-E188**, *Judgement*, 26 July 2010, paras 411-414; *Prosecutor v. Kordić et al*, *Judgement*, ICTY Appeals Chamber (IT-95-14/2-A), 17 December 2004, para. 373; *Prosecutor v. Tadić*, *Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction*, ICTY Appeals Chamber (IT-94-1-AR72), 2 October 1995, para. 84; *Prosecutor v. Delalić et al*, *Judgement*, ICTY Trial Chamber (IT-96-21-T), 16 November 1998, para. 183. *See also* ICRC, *Commentary to Geneva Convention IV*, Geneva, 1958, pp. 20-21.

<sup>158</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 415; *Prosecutor v. Kordić et al*, *Judgement*, ICTY Appeals Chamber (IT-95-14/2-A), 17 December 2004, paras 319-321; *Prosecutor v. Delalić et al*, *Judgement*, ICTY Trial Chamber (IT-96-21-T), 16 November 1998, para. 183, *citing* *Prosecutor v. Tadić*, *Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction*, ICTY Appeals Chamber (IT-94-1-AR72), 2 October 1995, para. 70.



there was actual combat in the area where the crimes were allegedly committed. The armed conflict need not be causal to the alleged crime, but must play a substantial part in the perpetrator's decision and ability to commit it, the manner in which it was committed, or the purpose for which it was committed.<sup>159</sup>

81. **Status of the victims as protected persons** – Article 6 of the ECCC Law gives the ECCC jurisdiction over acts against persons or property protected under the Geneva Conventions, which, as relevant to Case 003, extends to prisoners of war (protected persons pursuant to Geneva Convention III) and civilians (protected persons pursuant to Geneva Convention IV).<sup>160</sup>
82. Prisoners of war are persons who have “*fallen into the power of the enemy*” and belong to one of several categories including members of the armed forces of a party to the conflict, and members of militias or volunteer corps forming part of such armed forces.<sup>161</sup> The protection afforded to prisoners of war applies from the time they fall into the power of the enemy until their final release and repatriation.<sup>162</sup>
83. Regarding civilians, Geneva Convention IV protects “*those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.*”<sup>163</sup>
84. **Perpetrator's knowledge** – The perpetrator must have had sufficient knowledge of the facts establishing the international character of the armed conflict and of the protected status of the victims under the Geneva Conventions.<sup>164</sup>

<sup>159</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 416; *Prosecutor v. Tadić*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, ICTY Appeals Chamber (IT-94-1-AR72), 2 October 1995, para. 70; *Prosecutor v. Kunarac et al*, *Judgement*, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, paras 57-59; *Prosecutor v. Duško Tadić*, Opinion and Judgement, ICTY Trial Chamber (IT-94-1-T), 7 May 1997, paras 572-573.

<sup>160</sup> Protected under Geneva Convention III, Articles 4, 129-130 and Geneva Convention IV, Articles 4, 146-147, respectively; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 417.

<sup>161</sup> Geneva Convention III, Article 4(A)(1) (the remaining categories of persons considered prisoners of war set out in Geneva Convention III, Article 4 are not relevant to the charges in Case 003); **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 418.

<sup>162</sup> Geneva Convention III, Article 5.

<sup>163</sup> Geneva Convention IV, Article 4. *See also Case File No. 001-E188*, *Judgement*, 26 July 2010, para. 418.

<sup>164</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, paras 421-422; *Prosecutor v. Naletilic et al*, *Judgement*, ICTY Appeals Chamber (IT-98-34-A), 3 May 2006, paras 113-121; *see also Prosecutor v. Kordić et al*, *Judgement*, ICTY Appeals Chamber (IT-95-14/2-A), 17 December 2004, para. 311.



*Elements of crimes constituting grave breaches of the Geneva Conventions*

85. The following grave breaches of the Geneva Conventions are relevant to Case 003: wilful killing, torture, wilfully causing great suffering or serious injury to body or health, and unlawful confinement of civilians.<sup>165</sup>
86. The elements of **wilful killing** are equivalent to those of murder as a crime against humanity.<sup>166</sup>
87. The elements of **torture** are equivalent to those constituting torture as a crime against humanity.<sup>167</sup>
88. The elements of **wilfully causing great suffering or serious injury to body or health** are:
- a. *Actus Reus*: an act or omission causing serious mental or physical suffering or injury, the requisite level of suffering or injury being required to be proven. The harm caused need not be irremediable or permanent, but it must go beyond temporary unhappiness, embarrassment or humiliation. It must be harm that results in a grave and long-term disadvantage to a person's ability to lead a normal and constructive life. Acts or omissions where the resultant harm relates only to a victim's human dignity are excluded from this crime.<sup>168</sup>
  - b. *Mens rea*: intention to inflict great suffering or serious injury to body or health, or recklessness as to whether such suffering or injury would result.<sup>169</sup>
  - c. This crime is distinguishable from torture as the alleged act or omission need not be committed for a particular purpose.<sup>170</sup>

<sup>165</sup> ECCC Law, Article 6.

<sup>166</sup> See para. 51. **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 431; *Prosecutor v. Brđanin*, *Judgement*, ICTY Trial Chamber II (IT-99-36-T), 1 September 2004, para. 380.

<sup>167</sup> See para. 55. **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 439; *Prosecutor v. Brđanin*, *Judgement*, ICTY Trial Chamber II (IT-99-36-T), 1 September 2004, para. 482.

<sup>168</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, paras 451-454; *Prosecutor v. Delalic et al*, *Judgement*, ICTY Appeals Chamber (IT-96-21-A), 20 February 2001, para. 424; *Prosecutor v. Delalic et al*, *Judgement*, ICTY Trial Chamber (IT-96-21-T), 16 November 1998, para. 511; *Prosecutor v. Kordić et al*, *Judgement*, ICTY Trial Chamber (IT-95-14/2-T), 26 February 2001, para. 245; *Prosecutor v. Krstić*, *Judgement*, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, paras 511-513.

<sup>169</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 455; *Prosecutor v. Blaškić*, *Judgement*, ICTY Trial Chamber, (IT-95-14-T), 3 March 2000, para. 152.

<sup>170</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 453; *Prosecutor v. Delalic et al*, *Judgement*, ICTY Trial Chamber (IT-96-21-T), 16 November 1998, paras 508, 511.



89. The elements of **unlawful confinement of civilians** are, save for the following distinguishing aspects, equivalent to those constituting the crime of imprisonment as a crime against humanity:<sup>171</sup>
- a. The confinement of civilians during armed conflict is permissible only where there are reasonable grounds to believe it is “*absolutely necessary*” due to the security of the State being at risk. An initially lawful confinement becomes unlawful if the detaining party fails to respect basic procedural rights of the detained person or to establish an appropriate court or administrative board as required by Article 43 of Geneva Convention IV.<sup>172</sup>
  - b. Unlawful confinements under Article 6 of the ECCC Law need not, unlike imprisonment as a crime against humanity, be of similar gravity and seriousness as other crimes against humanity under Article 5 of the ECCC Law.

### 3.2.2 National crimes

90. Article 3 new of the ECCC Law gives the CIJs jurisdiction over the crime of homicide,<sup>173</sup> as a violation of the 1956 Penal Code, which was the criminal code applicable from 1975 to 1979.<sup>174</sup>
91. In his final submission, the ICP states that he does not seek **Meas Muth**'s indictment for national crimes on the grounds that **Meas Muth**'s conduct is better characterised under the international crimes of genocide and crimes against humanity, and that dispensing with the national crimes will avoid unnecessary litigation and thus expedite the proceedings.<sup>175</sup> The Defence support the dismissal of charges for national crimes on the grounds that they believe the crimes to be statute-barred, citing an earlier opinion of the international judges of the TC to that effect.<sup>176</sup> I am not persuaded of the necessity

<sup>171</sup> See para. 54. **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 464; *Prosecutor v. Kordić et al*, *Judgement*, ICTY Trial Chamber (IT-95-14/2-T), 26 February 2001, paras 292, 301.

<sup>172</sup> Geneva Convention IV, Articles 5, 42-43; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 465; *Prosecutor v. Kordić et al*, *Judgement*, ICTY Appeals Chamber (IT-95-14/2-A), 17 December 2004, paras 69-73; *Prosecutor v. Delalić et al*, *Judgement*, ICTY Appeals Chamber (IT-96-21-A), 20 February 2001, paras 320-322.

<sup>173</sup> Articles 501, 504, 505, 506, 507, and 508 of the 1956 Penal Code.

<sup>174</sup> **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, para. 92.

<sup>175</sup> **D256/7**, *International Co-Prosecutor's Rule 66 Final Submission*, 14 November 2017, para. 1061.

<sup>176</sup> **D256/11**, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 November 2018, paras 112-114, citing, at note 291, the opinion of Judges Cartwright and Lavergne in **Case File No. 001-E187**, *Decision on the Defence Preliminary Objection Concerning the Statute of Limitations of Domestic Law*, 20 July 2010, paras 32-33.



or utility in dispensing with national crimes on such grounds. Firstly, any time saving that might be achieved in doing so would be minimal given that the facts and evidence required to establish international crimes will significantly, if not completely, overlap with the facts and evidence required to establish national crimes. Secondly, the issue of the statute of limitations has been clearly and unanimously resolved by the PTC and there is accordingly no doubt that the national crimes for which **Meas Muth** has been charged are not statute-barred.<sup>177</sup>

### *Homicide*

92. One of the two forms of the domestic crime of homicide under the 1956 Penal Code is premeditated murder,<sup>178</sup> which requires the following elements:

- a. *Actus reus*: the perpetrator must have caused the death of another person.<sup>179</sup>
- b. *Mens rea*: the perpetrator must have acted “with premeditation” and “with the intent to cause death”.<sup>180</sup> Premeditation is defined as “the decision to act before the action is actually undertaken, whereby the amount of time after this decision must be long enough for the author to perform preparatory acts”.<sup>181</sup>

93. The PTC has found that premeditated murder is not subsumed by the international crime of murder, as it requires premeditation and a higher *mens rea*, i.e. the intent to kill rather than the lesser intent to cause serious bodily harm.<sup>182</sup>

## **3.3 Modes of liability**

### **3.3.1 *Modes of liability applicable to international crimes***

94. Pursuant to Article 29 of the ECCC Law, an individual may be held criminally responsible through the modes of liability of commission (including by participation in a joint criminal enterprise), planning, ordering, and superior responsibility. These forms

<sup>177</sup> Case File No. 004/2-D360, [Redacted] Closing Order (Indictment), 16 August 2018, para. 59; Case File No. 002-D427/1/30, Decision on Ieng Sary’s Appeal Against the Closing Order, 11 April 2011.

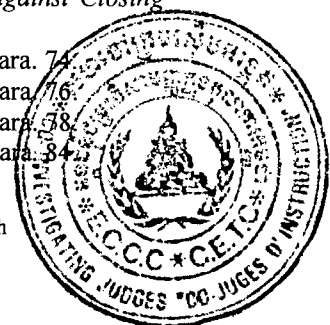
<sup>178</sup> Article 506 of the 1956 Penal Code; Case File No. 001-D99/3/42, Decision on Appeal against Closing Order, 5 December 2008, paras 74, 76.

<sup>179</sup> Case File No. 001-D99/3/42, Decision on Appeal against Closing Order, 5 December 2008, para. 74.

<sup>180</sup> Case File No. 001-D99/3/42, Decision on Appeal against Closing Order, 5 December 2008, para. 76.

<sup>181</sup> Case File No. 001-D99/3/42, Decision on Appeal against Closing Order, 5 December 2008, para. 78.

<sup>182</sup> Case File No. 001-D99/3/42, Decision on Appeal against Closing Order, 5 December 2008, para. 84.



of liability were all part of customary international law during the time period covered by the ECCC's temporal jurisdiction.<sup>183</sup>

95. **Commission** – This form of criminal liability encompasses physical perpetration or culpable omission of an act.<sup>184</sup> The perpetrator must have acted with the intent to commit the crime, or with an awareness of the substantial likelihood that the crime would occur as a consequence of the alleged conduct.<sup>185</sup> Commission also encompasses participation in a joint criminal enterprise,<sup>186</sup> which is discussed further below.
96. **Planning** – This form of criminal liability arises when one or more persons design criminal conduct constituting one or more crimes that were later perpetrated.<sup>187</sup> The planning must have preceded and substantially contributed to the commission of the crimes.<sup>188</sup> The perpetrator must have had the intent for the crime to be committed, or have been aware of the substantial likelihood that the crime would be committed in the execution or implementation of the plan.<sup>189</sup>
97. **Ordering** – This form of criminal liability arises when an individual, in a position of *de facto* or *de jure* authority, instructs another person to commit a crime.<sup>190</sup> No formal superior-subordinate relationship is required between the person giving the instruction and the person receiving it.<sup>191</sup> The order in question, which is not required to take any particular form, must have substantially contributed to the criminal conduct.<sup>192</sup> Responsibility for ordering may ensue also where an individual passes down or otherwise transmits an order, including through intermediaries.<sup>193</sup> The ordering person

<sup>183</sup> **Commission:** Case File No. 001-E188, *Judgement*, 26 July 2010, paras 478-479; **Planning:** Case File No. 002-E313, *Judgement*, 7 August 2014, para. 697; **Ordering:** Case File No. 002-E313, *Judgement*, 7 August 2014, para. 701; **Superior Responsibility:** Case File No. 002-E313, *Judgement*, 7 August 2014, para. 714.

<sup>184</sup> Case File No. 001-E188, *Judgement*, 26 July 2010, para. 479.

<sup>185</sup> Case File No. 001-E188, *Judgement*, 26 July 2010, para. 481.

<sup>186</sup> Case File No. 001-E188, *Judgement*, 26 July 2010, para. 479.

<sup>187</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 698; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 518; *Prosecutor v. Kordić and Čerkez*, *Judgement*, ICTY Appeals Chamber (IT-95-14/2-A), 17 December 2004, para. 26.

<sup>188</sup> Case File No. 001-E188, *Judgement*, 26 July 2010, para. 518.

<sup>189</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 698; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 519.

<sup>190</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 702; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 527.

<sup>191</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 702; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 527.

<sup>192</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 702; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 527.

<sup>193</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 702; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 527.



must have had the intent to bring about the commission of the crime, or have been aware of the substantial likelihood that the crime would be committed as a consequence of the execution or implementation of the order.<sup>194</sup>

98. **Superior responsibility** – Superior (or command) responsibility is a mode of criminal responsibility by culpable omission pursuant to which a military or civilian superior may be held criminally responsible for having failed to prevent and/or punish crimes committed by subordinates.
99. The first requirement is the existence of a superior-subordinate relationship,<sup>195</sup> which can be either *de jure* or *de facto*.<sup>196</sup> Further, superior responsibility applies to both military and civilian superiors.<sup>197</sup> The superior, whether military or civilian, must have had effective control, which is the material ability to prevent and/or punish the crimes of the subordinate-perpetrator.<sup>198</sup> Finally, the superior must have failed to take the necessary and reasonable measures to prevent the commission of such crime or punish the perpetrator.<sup>199</sup> According to the jurisprudence of the *ad hoc* tribunals, it is not necessary to prove a causal link between a superior's failure to prevent the subordinate's crimes and the occurrence of these crimes.<sup>200</sup>
100. In addition, to incur criminal responsibility the superior must have known or had reason to know, by being in possession of information sufficiently alarming to justify further enquiry, that a crime was about to be, or had been, committed by one or more of his or

<sup>194</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 702; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 528.

<sup>195</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 715; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 538.

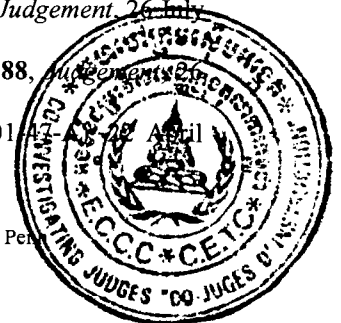
<sup>196</sup> Case File No. 001-E188, *Judgement*, 26 July 2010, para. 540; see also *Prosecutor v. Delalić et al* (“Čelebići Case”), *Judgement*, ICTY Appeals Chamber (IT-96-21-A), 20 February 2001, paras 191-192; and *Prosecutor v. Popović et al*, *Judgement*, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 1038.

<sup>197</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 714; Case File No. 001-E188, *Judgement*, 26 July 2010, paras 476-477.

<sup>198</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 715; Case File No. 001-E188, *Judgement*, 26 July 2010, paras 540-542.

<sup>199</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 716; Case File No. 001-E188, *Judgement*, 26 July 2010, paras 545-547.

<sup>200</sup> *Prosecutor v. Hadžihasanović and Kubura*, *Judgement*, ICTY Appeals Chamber (IT-01-98-AT), 15 July 2008, para. 40.





her subordinates.<sup>201</sup> The superior need not know the precise identity of the subordinate-perpetrator, however, their existence must be proved.<sup>202</sup>

101. The failure to prevent and failure to punish are legally and factually distinct modes of liability representing two distinct legal obligations. A superior may be held responsible for both failures.<sup>203</sup>
102. Superiors may incur responsibility for crimes committed by subordinates who were not formally under their *direct* control, provided the other requirements of superior responsibility are met.<sup>204</sup>
103. The Defence argue that superior responsibility may not be applied to specific intent crimes.<sup>205</sup> Article 29 of the ECCC Law explicitly provides, however, that superior responsibility is applicable to the crime of genocide,<sup>206</sup> and it has been the basis of multiple genocide convictions at the *ad hoc* tribunals.<sup>207</sup> The *mens rea* required for superiors to be held responsible for genocide is that the superior knew or had reason to know that their subordinates (i) were about to commit or had committed genocide, and (ii) possessed the requisite specific intent.<sup>208</sup>

<sup>201</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 715; **Case File No. 001-E188**, *Judgement*, 26 July 2010, paras 543-544.

<sup>202</sup> *Prosecutor v. Blagojević and Jokić*, *Judgement*, ICTY Appeals Chamber (IT-02-60-A), 9 May 2007, para. 287; *Prosecutor v. Orić*, *Judgement*, ICTY Appeals Chamber (IT-03-68-A), 3 July 2008, para. 35.

<sup>203</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, paras 545-547; *see also, Prosecutor v. Hadžihasanović and Kubura*, *Judgement*, ICTY Appeals Chamber (IT-01-47-A), 22 April 2008, paras 259-260.

<sup>204</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 721; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 542, citing *Prosecutor v. Blaškić*, *Judgement*, ICTY Appeals Chamber (IT-95-14-A), 29 July 2004, para. 67 and *Prosecutor v. Delalić et al* (“*Čelebići Case*”), *Judgement*, ICTY Appeals Chamber (IT-96-21-A), 20 February 2001, para. 252.

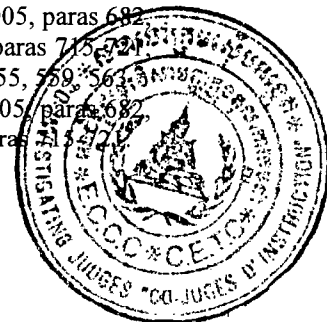
<sup>205</sup> **D256/11**, *Meas Muth’s Response to the International Co-Prosecutor’s Final Submission*, 12 April 2018, paras 116, 118; **D174/1/1**, *Meas Muth’s Appeal Against the International Co-Investigating Judge’s Decision to Charge Meas Muth with Grave Breaches of the Geneva Conventions and National Crimes and to apply JCE and Command Responsibility*, 6 January 2016, paras 77-80.

<sup>206</sup> Article 29 of the ECCC Law provides that “[...] *The fact that any of the acts referred to in Articles 3 new, 4, 5, 6, 7 and 8 of this law were committed by a subordinate does not relieve the superior of personal criminal responsibility [...]*”.

<sup>207</sup> *Prosecutor v. Blagojević & Jokić*, *Judgement*, ICTY Trial Chamber I (IT-02-60), 17 January 2005, paras 682-686; *Prosecutor v. Brđanin*, *Judgement*, ICTY Trial Chamber (IT-99-36-T), 1 September 2004, paras 715-724.

*Prosecutor v. Ruzindana and Kayishema*, *Judgement*, ICTR Trial Chamber, 21 May 1999, paras 555, 559-563.

<sup>208</sup> *Prosecutor v. Blagojević & Jokić*, *Judgement*, ICTY Trial Chamber (IT-02-60), 17 January 2005, para. 682; *Prosecutor v. Brđanin*, *Judgement*, ICTY Trial Chamber (IT-99-36-T), 1 September 2004, para. 542.



104. The Defence further argue that superior responsibility can only be applied to crimes connected to an international armed conflict.<sup>209</sup> I consider it settled law at the ECCC that the doctrine was applicable, prior to 1975, to both international and non-international armed conflicts, as well as to crimes against humanity,<sup>210</sup> and refer to and rely upon the consistent approach to the doctrine at the ECCC, namely that superior responsibility existed in international law, regardless of the context, by 1975.<sup>211</sup>
105. **Joint criminal enterprise** – Participation in a joint criminal enterprise (“JCE”) amounts to commission under Article 29 of the ECCC Law.<sup>212</sup> JCE is a form of co-perpetration where a plurality of persons shares a common purpose or objective which amounts to or involves the commission of one or more crimes.<sup>213</sup>
106. International criminal courts and tribunals have identified three forms of JCE.<sup>214</sup> Contrary to what the Defence argue,<sup>215</sup> the first and second forms of JCE existed in customary international law between 1975 and 1979 and are applicable at the ECCC.<sup>216</sup> The second form of JCE, which has essentially the same elements as the first one, is not charged against **Meas Muth**. The third form of JCE was not part of customary

<sup>209</sup> **D256/11**, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 April 2018, paras 117-118; **D145**, *Meas Muth's Motion Against the Application of Command Responsibility to Crimes that are not Connected to an International Armed Conflict*, 23 July 2015.

<sup>210</sup> **D145/3**, *Decision on the Application of Command Responsibility outside International Armed Conflict*, 1 August 2016, para. 33.

<sup>211</sup> In Case 002, no distinction between international and non-international conflicts was made regarding the applicability of superior responsibility by the CIJs in their indictment (**Case File No. 002-D427**, *Closing Order*, 15 September 2010, paras 1307, 1319, 1558-1562), by the PTC in deciding the closing order appeals (**Case File No. 002-D427/3/15**, *Decision on Appeals by Nuon Chea and Ieng Thirith against the Closing Order*, 15 February 2011, paras 190-232; **Case File 002-D427/1/30**, *Decision on Ieng Sary's Appeal Against the Closing Order*, 11 April 2011, paras 413-460), by the Trial Chamber in its Judgement (**Case File No. 002-E313**, *Judgement*, 7 August 2014, paras 714-719), nor by the parties in their Case 002/2 closing briefs (**Case File No. 002-E457/6/3/1**, *Nuon Chea's Amended Closing Brief in Case 002/02*, 28 September 2017, para. 1213; **Case File No. 002-E457/6/1/1**, *Co-Prosecutor's Amended Closing Brief in Case 002/02*, 2 October 2017, paras 246-255; **Case File No. 002-E457/6/2/3**, *Civil Party Lead Co-Lawyers' Amended Closing Brief in Case 002/02*, 2 October 2017; **Case File No. 002-E457/6/4/1.2**, *Conclusions Finales Amendées de Khieu Samphan (002/02)*, 2 October 2017, paras 2469-2470).

<sup>212</sup> **Case File No. 002-E100/6**, *Decision on the Applicability of Joint Criminal Enterprise*, 12 September 2011, para. 22; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 690.

<sup>213</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 692.

<sup>214</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 690; *Prosecutor v. Tadić*, Judgement, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, paras 196-204.

<sup>215</sup> **D256/11**, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 April 2018, paras 119-120.

<sup>216</sup> **Case File No. 002-E100/6**, *Decision on the Applicability of Joint Criminal Enterprise*, 12 September 2011, para. 22; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 691; **Case File No. 002-E36**, *Appeal Judgement*, 23 November 2016, para. 791.



international law during that period and is therefore not applicable at the ECCC.<sup>217</sup> Thus, only the elements of the first form of JCE will be summarised in this section.

107. *Common purpose* - The common purpose or objective can either be inherently criminal (such that the common purpose *amounts to* the commission of a crime or crimes), or have a non-criminal objective which the plurality of persons intends to achieve through criminal means (such that the common purpose *involves* the commission of a crime or crimes).<sup>218</sup>
108. In Case 002/1, for example, the TC and SCC found that the JCE members shared a common purpose to implement a socialist revolution in Cambodia, which itself was not a criminal purpose, but it involved the commission of crimes to bring the common purpose to fruition.<sup>219</sup>
109. There is no requirement for a previously arranged or formulated plan by the participants. The common purpose or objective may materialise extemporaneously and may be inferred from the fact that a plurality of persons acts in unison to put into effect a JCE.<sup>220</sup>
110. *Plurality of persons* – a JCE requires the participation of a plurality of persons in the common purpose.<sup>221</sup> It is not necessary to identify, by name, all JCE participants and it

<sup>217</sup> **Case File No. 002-E100/6**, *Decision on the Applicability of Joint Criminal Enterprise*, 12 September 2011, paras 35, 38; **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 791; **Case File No. 002-D97/15/9**, *Decision on the Appeals against the Co-Investigating Judges' Order on Joint Criminal Enterprise (JCE)*, 20 May 2010, paras 77, 87-88.

<sup>218</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 814; **Case File No. 002-E100/6**, *Decision on the Applicability of Joint Criminal Enterprise*, 12 September 2011, para. 17; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 696; *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 418; *Prosecutor v. Brima et al*, Judgement, SCSL Appeals Chamber (SCSL-04-16-A), 22 February 2008, para. 80. *See also Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, para. 96.

<sup>219</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, paras 778, 804, 834; **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 816. Similarly, in *Prosecutor v. Prlić et al*, Judgement, ICTY Trial Chamber (IT-04-74-T), Vol. 4 of 6, 29 May 2013, paras 24, 41-43, 65-68, the Trial Chamber found that the JCE members shared the objective to create an independent state separate from Bosnia and Herzegovina. While this objective was not criminal, the JCE members sought to achieve it through the commission of a number of crimes against the Muslim population.

<sup>220</sup> *Prosecutor v. Tadić*, Judgement, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, para. 227(ii); *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 418; *Prosecutor v. Mpambara*, Judgement, ICTR Trial Chamber (ICTR-01-65-T), 11 September 2006, para. 13. *Spontaneous conspiracy, no specific agreement to commit the crime need be shown: the common purpose need be spontaneous and informally, and the persons involved need not be associated through a formal organization.*

<sup>221</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 692; *Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, para. 81.



may be sufficient to adequately refer to categories or groups of persons.<sup>222</sup> The plurality of persons need not be organised in a military, political or administrative structure.<sup>223</sup>

111. *Participation in the common purpose* – Participation in the common purpose need not involve carrying out any part of the *actus reus* of a crime forming part of the common purpose.<sup>224</sup> It suffices that the conduct of the participant is in some way directed to furthering the common purpose.<sup>225</sup> A JCE member’s conduct can take the form of an act or culpable omission.<sup>226</sup> A JCE member’s contribution need not be a necessary one, without which the crime(s) part of the common purpose could or would not have been committed,<sup>227</sup> but must at least amount to a significant contribution to the crime(s).<sup>228</sup>
112. Even activities that are, on their face, unrelated to the commission of crimes may be taken into account when determining whether the JCE member made a significant

<sup>222</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 692; *Prosecutor v. Brđanin*, *Judgement*, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 430; *Prosecutor v. Đorđević*, *Judgement*, ICTY Trial Chamber (IT-05-87/1-T), 23 February 2011, para. 1861, “*It is not necessary to identify by name each of the persons involved; depending on the circumstances of the case, it can be sufficient to refer to categories or groups of persons. However, such categories or groups must be adequately identified as to avoid vagueness or ambiguity*”. For an example of too vague a characterisation of the members of a JCE, see *Prosecutor v. Krajišnik*, *Judgement*, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, paras 156-157.

<sup>223</sup> *Prosecutor v. Tadić*, *Judgement*, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, para. 227(i); *Prosecutor v. Đorđević*, *Judgement*, ICTY Trial Chamber (IT-05-87/1-T), 23 February 2011, para. 1861.

<sup>224</sup> *Prosecutor v. Brđanin*, *Judgement*, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 427; *Prosecutor v. Tadić*, *Judgement*, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, para. 227(iii); *Prosecutor v. Krajišnik*, *Judgement*, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, para. 215.

<sup>225</sup> *Prosecutor v. Tadić*, *Judgement*, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, paras 191, 227 (iii), 229 (iii); *Prosecutor v. Kvočka et al*, *Judgement*, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, para. 187. The *Krajišnik* trial judgement provides a good example of a conduct which is not criminal *per se*, but which in the circumstances of the case significantly contributed to the commission of the crimes. In paras 1120 and 1121 of *Prosecutor v. Krajišnik*, *Judgement*, ICTY Trial Chamber (IT-00-39-T), 27 September 2006, the Chamber found that Krajišnik’s overall contribution to the JCE was to help establish and perpetuate the SDS party and state structures “*that were instrumental to the commission of the crimes.*” The Appeals Chamber upheld the Trial Chamber’s judgement, stating that “*the participation of an accused in the JCE need not involve the commission of a crime, what is important is that it furthers the execution of the common objective or purpose involving the commission of crimes*”, *Prosecutor v. Krajišnik*, *Judgement*, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, paras 215, 218. See also *Prosecutor v. Brđanin*, *Judgement*, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 430.

<sup>226</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 693; *Prosecutor v. Kvočka et al*, *Judgement*, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, paras 187, 421, 556. As a matter of general principle, the ICTY and ICTR Appeals Chambers have consistently held that a crime may be committed by culpable omission where there is a duty to act, and that an accused may be held directly responsible for contributing to a crime by omission where an accused had a duty to act, see *Prosecutor v. Blaškić*, *Judgement*, ICTY Appeals Chamber (IT-95-14-A), 29 July 2004, para. 663; *Prosecutor v. Galić*, *Judgement*, ICTY Appeals Chamber (IT-98-29-A), 30 November 2006, para. 175.

<sup>227</sup> *Prosecutor v. Kvočka et al*, *Judgement*, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, paras 98, 193.

<sup>228</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 980; *Prosecutor v. Brđanin*, *Judgement*, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 430; *Prosecutor v. Krajišnik*, *Judgement*, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, paras 215, 696.



contribution.<sup>229</sup> Such activities may nevertheless further and support the commission of crimes, if only indirectly.<sup>230</sup> In making this assessment, the totality of the activities should be considered, and particular contributions should not be assessed in isolation.<sup>231</sup> The significance of a contribution to the JCE should be determined on a case-by-case basis, taking into account a variety of factors, including the position of the charged person, level and efficiency of participation, and any efforts to prevent crimes.<sup>232</sup>

113. *Mens rea* - A JCE member must intend the commission of each crime that is part of the common purpose, that is, the intent must cover both the common purpose and the crimes it encompasses.<sup>233</sup> This intent must be shared by and be common to all JCE members.<sup>234</sup> Where the crime involves persecution or genocide, the JCE members must share the special intent required for those crimes.<sup>235</sup>
114. The SCC has clarified that, in the instance of a common purpose *involving* the commission of a crime or crimes, it is not necessary that those who agree on the common purpose actually “*desire*” that the crime be committed, as long as they recognise that the crime is to be committed to achieve the ulterior objective.<sup>236</sup> The SCC added that this may include crimes that are foreseen as a means to achieve a given

<sup>229</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 984.

<sup>230</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 984.

<sup>231</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 980.

<sup>232</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 980.

<sup>233</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 1053.

<sup>234</sup> *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 430; *Prosecutor v. Krajišnik*, Judgement, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, para. 200; *Prosecutor v. Stakić*, Judgement, ICTY Appeals Chamber (IT-97-24-A), 22 March 2006, para. 65. See also *Prosecutor v. Tadić*, Judgement, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, paras 196: “The first such category is represented by cases where all co-defendants, acting pursuant to a common design, possess the same criminal intention; for instance, the formulation of a plan among the co-perpetrators to kill, where, in effecting this common design (and even if each co-perpetrator carries out a different role within it), they nevertheless all possess the intent to kill. The objective and subjective prerequisites for imputing criminal responsibility to a participant who did not, or cannot be proven to have, effected the killing are as follows: (i) the accused must voluntarily participate in one aspect of the common design (for instance, by inflicting non-fatal violence upon the victim, or by providing material assistance to or facilitating the activities of his co-perpetrators); and (ii) the accused, even if not personally effecting the killing, must nevertheless intend this result,” and para. 228; *Prosecutor v. Ntakirutimana et al.*, Judgement, ICTR Appeals Chamber, (ICTR-96-10-A and ICTR-96-17-A), 13 December 2004, para. 463: “The first category is a ‘basic’ form of joint criminal enterprise. It is represented by cases where all co-perpetrators, acting pursuant to a common purpose, possess the same criminal intention”; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 694; *Prosecutor v. Vasiljević*, Judgement, ICTY Appeals Chamber (IT-98-32-A), 25 February 2003, para. 101.

<sup>235</sup> *Prosecutor v. Kvočka et al.*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, paras 109-110; *Prosecutor v. Krnojelac*, Judgement, ICTY Appeals Chamber (IT-97-25-A), 17 September 2003, paras 111-112.

<sup>236</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 808.



common purpose, even if their commission is not certain.<sup>237</sup> It explained that if attaining the objective of a common purpose may bring about the commission of crimes, but it is agreed to pursue the objective regardless, the common purpose encompasses these crimes because, even though not directly intended, they are contemplated by it.<sup>238</sup> I interpret this holding of the SCC, also on the basis of its use of the word “*desire*”, as a clarification that the commission of the crimes need not be the primary objective of the JCE members. However, there remains the need to show intent to commit the crimes by the JCE members, which is a fundamental requirement of the first type of JCE.

115. *Physical perpetrators* – JCE members can be held responsible for crimes committed by physical perpetrators who were not members of the JCE, as long as the crimes were part of the common purpose and committed in its furtherance.<sup>239</sup> To hold a member of a JCE responsible for crimes committed by non JCE-members, it must be shown that the crime can be imputed to at least one member of the JCE, and that this member – when using a physical perpetrator who was not a member of the JCE – acted to further the common purpose.<sup>240</sup> The existence of this link is a matter to be assessed on a case-by-case basis.<sup>241</sup>

### 3.3.2 Modes of liability applicable to national crimes

116. The CIJs in Case 002 held that commission through participation in a JCE and superior responsibility only apply to international crimes.<sup>242</sup> The PTC has not specifically addressed the applicability of superior responsibility to national crimes, but rejected the

<sup>237</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 808.

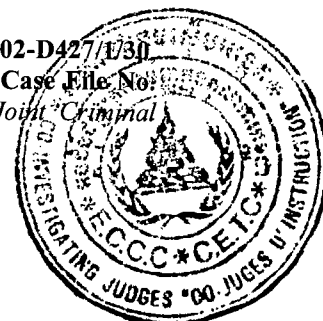
<sup>238</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 808

<sup>239</sup> *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, paras 410-413; *Prosecutor v. Krajišnik*, Judgement, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, para. 225.

<sup>240</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 693; *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 413.

<sup>241</sup> *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, paras 413, 418; *Prosecutor v. Krajišnik*, Judgement, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, paras 225-226. According to the *Krajišnik* Appeal Judgement, para. 226: “Factors indicative of such a link include evidence that the JCE member explicitly or implicitly requested the non-JCE member to commit such a crime or instigated, ordered, encouraged, or otherwise availed himself of the non-JCE member to commit the crime.” According to the *Brđanin* Appeal Judgement, para. 410: “In cases where the principal perpetrator of a particular crime is not a member of the JCE, this essential requirement may be inferred from various circumstances, including the fact that the accused or any other member of the JCE closely cooperated with the principal perpetrator in order to further the common criminal purpose”.

<sup>242</sup> **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1307; **Case File 002-D427/130** *Decision on Ieng Sary’s Appeal Against the Closing Order*, 11 April 2011, para. 296; see also **Case File No. 002-D97/13**, *Order on the Application at the ECCC of the Form of Liability Known as Joint Criminal Enterprise*, 8 December 2009, para. 22.



civil parties' argument that JCE is applicable to national crimes. In the PTC's view, participation in a JCE embraces situations where the charged person may be "*more remote from the actual perpetration of the actus reus of the crime than those foreseen by the direct participation required under domestic law.*"<sup>243</sup> The PTC has also expressed the view that the domestic form of co-perpetration set forth in Article 82 of the 1956 Penal Code is, like JCE, a form of commission which falls under Article 29 of the ECCC Law.<sup>244</sup>

117. Thus, consistent with the Closing Orders in Case 004/1 and Case 004/2, applying the PTC's formulation of domestic modes of liability and taking into account the CIJs' approach in Case 002, the modes of liability of commission (as a co-perpetrator), planning, and ordering will be considered with regard to violations of the 1956 Penal Code.

## 4 EVIDENTIARY CONSIDERATIONS

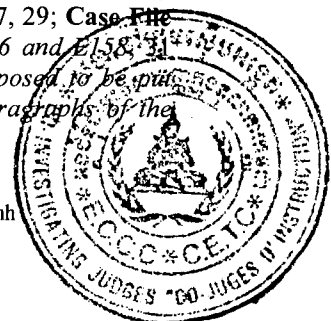
### 4.1 Statements other than written records of interviews generated by the OCIJ

118. The vast majority of the evidence relied on in Case 003 consists of WRIs generated by the OCIJ during the investigation, which are prepared under judicial supervision and subject to specific legal and procedural safeguards, and are thus entitled to a presumption of relevance and reliability.<sup>245</sup> I consider that transcripts of trial proceedings from other ECCC cases, and placed on Case File 003 because of their relevance to the allegations, enjoy the same presumption.
119. Statements and other evidence collected without judicial supervision by entities external to the ECCC, including DC-Cam, were generated without the judicial guarantees and formality that characterise WRIs, and thus enjoy no such

<sup>243</sup> **Case File No. 002-D97/15/9**, *Decision on the Appeals against the Co-Investigating Judges Order on Joint Criminal Enterprise (JCE)*, 20 May 2010, para. 101.

<sup>244</sup> Article 82 of the 1956 Penal Code reads in French: "*Toute personne participant volontairement, soit directement, soit indirectement, à la perpétration d'un crime ou d'un délit, est passible des peines applicables à l'auteur principal. La participation directe constitue la coaction, la participation indirecte constitue la complicité.*"; **Case File No. 002-D97/15/9**, *Decision on the Appeals against the Co-Investigating Judges Order on Joint Criminal Enterprise (JCE)*, 20 May 2010, para. 102.

<sup>245</sup> **Case File No. 002-E96/7**, *Decision on Co-Prosecutors' Rule 92 Submission Regarding the Admission of Witness Statements and Other Documents before the Trial Chamber*, 20 June 2012, paras 26-27, 29; **Case File No. 002-E162**, *Trial Chamber response to portions of E114, E114/1, E131/1/9, E131/6, E136 and E138*, 31 January 2012, para. 3; **Case File No. 002-E185**, *Decision on Objections to Documents Proposed to be Produced before the Chamber on the Co-Prosecutors' Annexes A1-A5 and to Documents cited in Paragraphs of the Closing Order Relevant to the First Two Trial Segments of Case 002/01*, 9 April 2012, para. 20.



presumption.<sup>246</sup> However, this does not include contemporaneous DK-era documents originating from DC-Cam, which the TC has found to enjoy a rebuttable presumption of *prima facie* relevance and reliability.<sup>247</sup>

120. Interviews conducted by the Co-Prosecutors during their preliminary investigations, although prepared specifically for criminal proceedings, are not conducted under oath and are prepared by a party with an inherent interest in the outcome of the case. Such statements are, however, collected for the purpose of a criminal trial and are therefore, in principle, afforded higher probative value than evidence not collected specifically for that purpose (including statements prepared by DC-Cam).<sup>248</sup>
121. Civil party applications enjoy no presumption of reliability and have been afforded little, if any, probative value if the circumstances in which they were recorded are not known.<sup>249</sup> Civil party applications and victim complaints offering only general conclusions and therefore representing a “*common narrative*” as opposed to personal experiences have been treated as insufficient to establish relevant facts.<sup>250</sup> Out-of-court statements by civil parties, other than those taken by the OCIJ, have been afforded low probative value,<sup>251</sup> while in-court civil party testimony has been assessed with caution.<sup>252</sup>
122. In conclusion, and balancing these considerations, WRIs generated by the OCIJ and trial transcripts enjoy a higher reliability presumption and have been afforded a higher probative value than statements prepared by other entities. With regard to the latter, a more cautious approach has been adopted in their assessment, and the information contained therein has been relied on only when corroborated by other sources.
123. A cautious approach has also been applied to the assessment of interviews and statements given by **Meas Muth** to entities other than the OCIJ. As the CIJs noted in

<sup>246</sup> **Case File No. 002-E96/7**, *Decision on Co-Prosecutors’ Rule 92 Submission Regarding the Admission of Witness Statements and Other Documents before the Trial Chamber*, 20 June 2012, para. 29.

<sup>247</sup> **Case File No. 002-E185**, *Decision on Objections to Documents Proposed to be put before the Chamber on the Co-Prosecutors’ Annexes A1-A5 and to Documents cited in Paragraphs of the Closing Order Relevant to the First Two Trial Segments of Case 002/01*, 9 April 2012, para. 28; **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 373.

<sup>248</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 296.

<sup>249</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 296.

<sup>250</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 457.

<sup>251</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 550.

<sup>252</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 315.





the Case 004/1 *Closing Order (Reasons)*, there are no provisions in the Internal Rules governing the use of statements given by suspects and charged persons to other entities or organisations, whether aware or unaware of being a suspect or being charged under an ECCC investigation; however, such statements have been relied upon to varying degrees by former CIJs and the TC in the exercise of their discretion and in accordance with the normal canons of evidence evaluation.<sup>253</sup> Consistent with that approach and the principles of the evaluation of evidence explained in this section, I have given less weight to interviews and statements given by **Meas Muth** than interviews conducted by the OCIJ. The credibility and probative value of such evidence has been assessed on a case-by-case basis in light of all the other evidence on the Case File.

#### 4.2 Hearsay evidence and reliance on uncorroborated evidence

124. The Defence submit that hearsay evidence should only be relied upon if corroborated by reliable sources and that any evidence, regardless of origin, should only be relied on when corroborated.<sup>254</sup> Pursuant to Internal Rule 87, all evidence is admissible in cases before the ECCC, including hearsay. Both the TC and the SCC consider that hearsay evidence can be relied upon, where sufficiently relevant and probative.<sup>255</sup> Other international courts have also acknowledged that judges may cautiously rely on hearsay, determining its reliability and probative value on a case-by-case basis.<sup>256</sup> This is the approach followed in this Closing Order.
125. The testimony of a single witness may be sufficient to establish a fact where sufficiently reliable and probative (although, as noted above, this approach has only been taken with respect to WRIs generated by the OCIJ and ECCC trial transcripts).<sup>257</sup>

<sup>253</sup> **D261**, *Closing Order (Reasons) in Case 004/1*, 10 July 2017, paras 138-139.

<sup>254</sup> **D256/11**, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 April 2018, paras 144-145.

<sup>255</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 43; see also **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 302.

<sup>256</sup> *Prosecutor v. Nindabahizi*, *Judgement*, ICTR Appeals Chamber (ICTR-01-71-A), 16 January 2007, para. 115; *Prosecutor v. Gacumbitsi*, *Judgement*, ICTR Appeals Chamber (ICTR-2001-64-A), 7 July 2006, para. 115; *Prosecutor v. Rutaganda*, *Judgement*, ICTR Appeals Chamber (ICTR-96-3-A), 26 May 2003, paras 34, 207, 311; *Prosecutor v. Karera*, *Judgement*, ICTR Appeals Chamber (ICTR-01-74-A), 2 February 2009, paras 39, 178; *Prosecutor v. Kordić and Cerkez*, *Judgement*, ICTY Appeals Chamber (IT-95-14/2-A), 17 December 2004, paras 281-284; *Prosecutor v. Gatete*, *Judgement*, ICTR Appeals Chamber (ICTR-00-61-A), 9 October 2012, para. 99; *Prosecutor v. Đorđević*, *Judgement*, ICTY Appeals Chamber (IT-05-87/1-A), 27 January 2014, para. 397.

<sup>257</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 43.



In principle, uncorroborated hearsay evidence can also be relied upon.<sup>258</sup> However, factors such as the source of that hearsay, the circumstances in which the witness learned about it, the consistency of that evidence with other related evidence on the Case File, and all other relevant circumstances need to be carefully assessed in cases of uncorroborated hearsay, especially when the evidence relates to specific elements of crimes or to the conduct of the charged person.

126. Contemporaneous DK-era documents originating directly from DC-Cam, in contrast to statements gathered after the DK-era, were recorded at or in close temporal proximity to the events depicted therein and are direct evidence thereof, they do not suffer from memory deficits associated with witness statements, nor were they prepared by a party with an inherent interest in the outcome of the case, at the time of their creation. As noted above, they are also afforded a rebuttable presumption of relevance and reliability. Accordingly, while a cautious approach is required, uncorroborated evidence of this type has been relied upon where appropriate.

#### 4.3 Torture-tainted evidence

127. Pursuant to Article 15 of the Convention against Torture, there is an absolute prohibition against using as evidence information contained in statements obtained under torture<sup>259</sup> and in using such statements in the questioning of witnesses,<sup>260</sup> except as evidence against an accused torturer as evidence that a statement was made under torture.
128. Confessions of prisoners detained in the S-21 Security Centre are presumed to have been made under torture. This is a rebuttable presumption.<sup>261</sup>

<sup>258</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 302; *Prosecutor v. Gacumbitsi*, Judgement, ICTR Appeals Chamber (ICTR-2001-64-A), 7 July 2006, para. 133.

<sup>259</sup> **Case File No. 002-D130/9/21**, *Decision on Admissibility of the Appeal against the Co-Investigating Judges' Order on Use of Statements Which Were or May Have been Obtained by Torture*, 18 December 2009, para. 30; **Case File No. 001-E1/27.1**, *Transcript of trial proceedings* [Kaing Guek Eav "Duch"], 28 May 2009, ERN 00336853, lines 1-25; **Case File No. 001-E176**, *Decision on Parties' Request to Put Certain Materials Before the Trial Chamber Pursuant to Internal Rule 87(2)*, 28 October 2009, para. 8; **Case File No. 002-E1/129.1**, *Transcript of Hearing on the Substance in Case 002* [Meas Voent], 3 October 2012, ERN 00852660, lines 8-21.

<sup>260</sup> **Case File No. 002-F26/12**, *Decision on Objections to Document Lists Full Reasons*, 31 December 2015, para. 47; **Case File 002-E1/129.1**, *Transcript of Hearing on the Substance in Case 002* [Meas Voent], 3 October 2012, ERN 00852660, lines 8-21.

<sup>261</sup> **Case File No. 002-F26/12**, *Decision on Objections to Document Lists Full Reasons*, 31 December 2015, paras 57-58.



129. Information contained in S-21 ‘detainee biographies’<sup>262</sup> other than a prisoner’s name, sex, and date of arrest, entry into S-21, or execution falls under this prohibition.<sup>263</sup> Information contained in S-21 confessions that originates from persons other than the torture victim, for example annotations made by the torturer, does not, however, fall under this prohibition.<sup>264</sup> Nor does Article 15 prohibit the use of information found in statements taken under torture during DK to locate witnesses and possibly interview them.<sup>265</sup> There is thus no prohibition against the use of evidence of witnesses identified in torture-tainted statements such as S-21 confessions and subsequently interviewed by the OCIJ.<sup>266</sup>

#### 4.4 Documentation Center of Cambodia mapping report

130. As part of its mapping project to identify and map mass graves across Cambodia, DC-Cam prepared a report containing information potentially relevant to the investigation into allegations against **Meas Muth** (“Mapping Report”). The Mapping Report concerns a field-mission carried out in November 1995 in Sihanoukville and

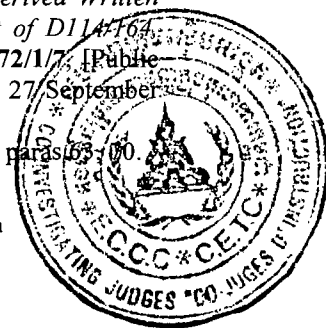
<sup>262</sup> Typically single-page documents setting out a S-21 detainee’s name, alias, date of birth, gender, nationality, position and department in “the revolution”, place of birth, number of children, and the date and place of arrest. See **D251**, *Consolidated Decision on Meas Muth’s Requests for Investigative Action Regarding Potential Use of Torture-Tainted Evidence*, 24 May 2017, para. 31.

<sup>263</sup> **D251**, *Consolidated Decision on Meas Muth’s Requests for Investigative Action Regarding Potential Use of Torture-Tainted Evidence*, 24 May 2017, para. 35.

<sup>264</sup> **Case File No. 002-F26/12**, *Decision on Objections to Document Lists Full Reasons*, 31 December 2015, paras 66-68.

<sup>265</sup> One of the policy rationales underpinning Article 15 of the Convention against Torture is to remove any incentive for states to engage in torture. To avoid frustrating this policy rationale, in stating the legitimacy of using evidence located through information obtained under torture, it is necessary to distinguish between the following two scenarios. Firstly, a situation where torture information is used by the torturing authorities to locate witnesses, suspects, fugitives or to otherwise further an ongoing investigation; and secondly, a situation where a judicial authority investigating the torturers seeks to use information elicited by the latter in order to identify possible sources of evidence against them. Allowing the use of torture information as investigative leads in the first scenario could incentivise the use of torture. So, for example, if an intelligence agency obtains a statement through torture, and subsequently uses names provided in that statement to locate a stash of documents or a person with information relevant to the investigation, those documents or the testimony of that person should not be admitted as evidence in any proceedings. In the second scenario, however, the judicial authority is neither directly nor indirectly connected to the torturing authorities, and would use possible leads to locate evidence *against* the torturers. In my view, evidence from witnesses located on the basis of statements obtained under torture can only be used in the second scenario. The PTC has also confirmed that the use of information from torture-tainted material as investigative leads does not amount to the use of that information as ‘evidence’ (**D257/1/8**, *Decision on Meas Muth’s Application for the Annulment of Torture-Derived Written Records of Interview*, 24 July 2018, para. 28; **D253/1/8**, *Decision on Request for Annulment of D114/164, D114/167, D114/170, and D114/171*, 13 December 2017, paras 30, 32; **Case File No. 004-D372/1/7**, [Public Redacted] *Decision on [Redacted] Application to Annul Evidence Made as a Result of Torture*, 27 September 2018, paras 23-25).

<sup>266</sup> **Case File No. 002-E350/8**, *Decision on Evidence Obtained through Torture*, 5 February 2016, paras 53-60.



surrounding area.<sup>267</sup> The Mapping Report provides information on, *inter alia*, the numbers of graves and of victims in relation to sites that fall within **Meas Muth**'s alleged area of responsibility, although not to crime sites in respect of which **Meas Muth** has been charged. Absent any indication that the sites in the Mapping Report are linked to crimes for which **Meas Muth** has been charged, the Mapping Report has not been relied upon as evidence.

131. My general views on the probative value of such mapping reports were expressed jointly with my national colleague in the Case 004/1 *Closing Order (Reasons)*.<sup>268</sup> Specifically, the mapping reports, which are based on field visits and interviews with sources, do not provide sufficient information regarding the sources of witnesses' knowledge of victim numbers so as to enable an adequate reliability and credibility assessment of the evidence. The dates and causes of death of the victims are also unknown or unclear, thereby rendering it impossible to determine whether the deaths fall under the relevant temporal jurisdiction. I thus find the victim numbers reported in the mapping reports to be unreliable and have consequently not relied on them. In calculating the number of victims attributable to **Meas Muth**, I have relied on witnesses who gave evidence to the OCIJ on the numbers and causes of death, and, where appropriate, on the OCIJ S-21 List.<sup>269</sup>

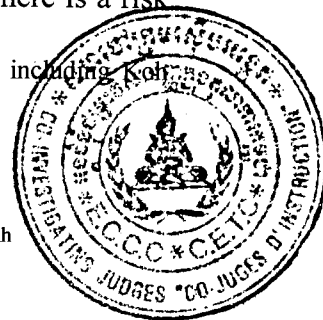
#### 4.5 Victim numbers

132. Each section of the factual findings on crimes in this Closing Order includes, where relevant, an estimate of the number of victims associated with the respective crime site or scenario. It merits some explanation as to the principles and methodology I have employed in arriving at these estimates.
133. In respect of all crime sites or scenarios, I have conservatively adopted the minimum number of victims that can be estimated on the evidence by applying the following principles. While some principles evince a more conservative approach to the assessment of evidence than is required for indictment, I have adopted this approach so as to avoid any risk of double-counting victim numbers. As a result, witness accounts describing victims have been excluded from the total calculations where there is a risk

<sup>267</sup> **D4.1.1026**, DC-Cam Report entitled "CGP Site Form"-Sihanouk Ville Genocide Report" including Khyang Site Report, 17 November 1995.

<sup>268</sup> See **D261**, *Closing Order (Reasons) in Case 004/1*, 10 July 2017, paras 131-135.

<sup>269</sup> See para. 146.



of the same victims being counted twice, or of including victims whose deaths or victimhood cannot reasonably be determined to relate to the temporal scope of the investigation. These conservative exclusions are intended to ensure that the estimations remain at minimum numbers, but also mean that the actual victims numbers are very likely to be much higher than estimated in this Closing Order.

#### 4.5.1 Calculating victim numbers based on evidence provided by a witness

134. Where a witness provides a numerical range for the number of victims (e.g. between 100 and 200), I have taken the lowest number in the range (100), as opposed to calculating the average.
135. In some instances, witnesses describe events as occurring repeatedly, as part of a regular practice, or as part of a process but without specifying the actual number of occurrences of which they were aware. If it is clear from the evidence that the events occurred on a regular basis and/or over a longer period of time and hence obviously more than just twice, I have assumed the event to have occurred three times; otherwise, the default count was only twice.
136. Where a witness refers to “*more than half*” of the number of people in a group, I have calculated this as half of the group plus one.
137. I have taken approximations at face value, provided I am satisfied of the witness’ basis of knowledge, as there is no non-arbitrary way to conservatively reduce the estimate. For example, where a witness states “*about 10*”, “*around 10*”, or “*approximately 10*”, then that number has been calculated as 10.
138. Any unspecified reference to “*hundreds*” is calculated as 200, and a reference to “*thousands*” is calculated as 2000.
139. Where a victim is described as having “*disappeared*”, that victim has been included in the calculation of deaths where the evidence supports the inference that the person was killed (e.g. where the disappearance occurred in the context of a mass killing operation and where the person was never seen again after the DK Regime).

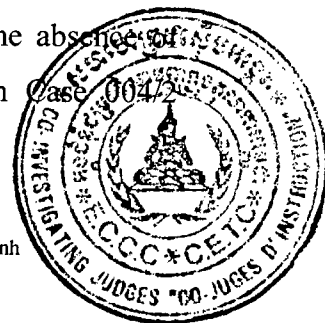


4.5.2 Calculating victim numbers based on the evidence of multiple witnesses

140. In respect of calculating total numbers of victims based on the combined evidence of multiple witnesses, only the minimum estimates from each witness are added.
141. Where it is possible that witnesses are describing the same event, I have not added together the numbers provided by multiple witnesses. However, if the evidence indicates that the groups of victims being described are different between each witness, then the numbers have been added.
142. Where multiple witnesses for one event provide conflicting accounts of the number of victims, then the lowest number provided is chosen, unless the figure provided by another witness is more reliable due to, for example, credibility, corroboration, or a stronger basis of knowledge. For example, if two witnesses state that they saw 20 people being killed in one event, but another witness only heard that merely 10 people were killed in that event (hearsay evidence), then the calculation will rely on 20, the number provided by the eye-witnesses.
143. If it cannot be excluded, based on a holistic evaluation of the evidence, that a victim's death occurred outside the timeframe of the allegations in Case 003, that victim has been excluded from the calculations.
144. Where a witness cannot name with any certainty the exact crime site at which a victim perished, but it is otherwise either clear from the evidence that the victim died at a crime site that was charged, or there is no reasonable hypothetical alternative which would sever any link of criminal responsibility of the charged person for that particular victim, the victim has not been counted in the death toll for any specific crime site but has been included in the overall toll for the case.

4.5.3 Counting families

145. Some witnesses describe victim numbers in terms of the number of families, as opposed to a number of individuals. Strictly speaking, the absolute minimum number of people required to constitute a family could be considered to be two persons, and while the likelihood of the average family size being two is negligible, in the absence of evidence allowing a contrary inference to be drawn (as was done in Case 004),



regarding Cham families),<sup>270</sup> this is the lowest minimum reasonable estimate adopted, unless a witness specifies otherwise.

#### **4.6 The OCIJ's list of S-21 prisoners**

146. The OCIJ's list of S-21 prisoners<sup>271</sup> (the "OCIJ S-21 List") has been relied upon in this case to establish the date of entry into S-21 of individuals transferred thereto; where so determined, the date of execution of individuals detained at S-21; and, the number of persons transferred to and/or executed following detention at S-21. Such reliance is appropriate given the thorough and lengthy analysis and the robust and rigorous methodology employed by the OCIJ analyst in preparing the OCIJ S-21 List.<sup>272</sup>

#### **4.7 Letters of assurance**

147. Letters of assurance were given, pursuant to Internal Rule 28, to witnesses who requested them.<sup>273</sup> Experience has shown that the provision of such assurances did not necessarily render witnesses less reluctant to discuss events, particularly in instances where there were indications that a witness may have been involved in criminal activity. This was likely due to a desire to maintain 'face' and avoid the implication of involvement in crimes committed against fellow Cambodians. Thus, the credibility of certain witnesses has been determined on the substance of their testimony and in accordance with their possible involvement in alleged criminal conduct, notwithstanding that letters of assurance were given.

#### **4.8 Attempts to obtain the assistance of Vietnam, Thailand, and the United Nations**

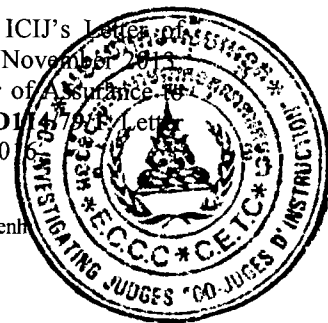
148. Multiple attempts were made to obtain the assistance of Vietnam and Thailand in relation to obtaining documents and accessing contemporary archives of those countries which may have borne evidence relevant, in particular, to crimes allegedly committed

<sup>270</sup> Case File No. 004/2-D360, [Redacted] Closing Order (Indictment), 16 August 2018, paras 150-154.

<sup>271</sup> D219/825.1.2, OCIJ S-21 Prisoner List, 13 September 2016, ERN 01222328-01222936.

<sup>272</sup> D322/8, Decision on the International Co-Prosecutor's Request to Place CPK Materials on Case File 004, 15 December 2016, para. 47; D219/825.1.1, Written Record of Investigating Action, 30 June 2016, ERN 01301657-01301658.

<sup>273</sup> See D54/99/1, ICIJ's Letter of Assurance to Lay Boonhak, 28 May 2014; D54/98/1, ICIJ's Letter of Assurance to Heang Ret, 26 May 2015; D54/46/1, ICIJ's Letter of Assurance to Em Sun, 26 November 2014; D54/87/1, ICIJ's Letter of Assurance to Prum Sarat, 29 April 2014; D54/112/1, ICIJ's Letter of Assurance to Long Chhea, 8 July 2014; D54/106/1, ICIJ's Letter of Assurance to Sann Kan, 12 May 2014; D114/158/1, Letter of Assurance from ICIJ, 5 June 2015; D114/158/1, Letter of Assurance from ICIJ, 1 February 2015.



by the DK Navy;<sup>274</sup> such attempts ultimately proved fruitless.<sup>275</sup> Similarly, the United Nations declined to provide confidential documents from its archives regarding the negotiations to establish the ECCC.<sup>276</sup>

<sup>274</sup> **Vietnam:** Pursuant to Rogatory Letter D93: **D93/14**, *ICIJ's Letter to Under Secretary General for Legal Affairs*, 5 June 2015; **D93/13**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 1 June 2015; **D93/12**, *ICIJ's Letter to Secretary General of United Nations*, 3 April 2015; **D93/11**, *ICIJ's Letter to the Ambassador of the Socialist Republic of Vietnam in Cambodia*, 6 February 2015; **D93/10**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 17 July 2014; **D93/9**, *ICIJ's Letter to Secretary General of United Nations*, 6 June 2014; **D93/8**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 7 April 2014; **D93/7**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 2 April 2014; **D93/6**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 17 March 2014; **D93/5**, *ICIJ's Letter to the Ambassador of the Socialist Republic of Vietnam in Cambodia*, 4 March 2014; **D93/4**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 4 March 2014; **D93/3/1**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 21 January 2014; **D93/3**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 15 January 2014; **D93/2**, *ICIJ's Letter to the Ambassador of the Socialist Republic of Vietnam in Cambodia*, 11 November 2013; **D93/1**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 11 November 2013; **D93**, *International Rogatory Letter (Vietnam)*, 11 November 2013. Pursuant to Rogatory Letter D94: **D94/13**, *ICIJ's Letter to Under Secretary General for Legal Affairs*, 5 June 2015; **D94/12**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 1 June 2015; **D94/11**, *ICIJ's Letter to Secretary General of United Nations*, 3 April 2015; **D94/10**, *ICIJ's Letter to the Ambassador of the Socialist Republic of Vietnam in Cambodia*, 6 February 2015; **D94/9**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 17 July 2014; **D94/8**, *ICIJ's Letter to Secretary General of United Nations*, 6 June 2014; **D94/7**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 7 April 2014; **D94/6**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 2 April 2014; **D94/5**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 17 March 2014; **D94/4**, *ICIJ's Letter to the Ambassador of the Socialist Republic of Vietnam in Cambodia*, 4 March 2014; **D94/3**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 4 March 2014; **D94/14/1**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 21 January 2014; **D94/14**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 15 January 2014; **D94/2**, *ICIJ's Letter to the Ambassador of the Socialist Republic of Vietnam in Cambodia*, 11 November 2013; **D94/1**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 11 November 2013; **D94**, *International Rogatory Letter (Vietnam)*, 11 November 2013. Pursuant to Rogatory Letter D95: **D95/13**, *ICIJ's Letter to Under Secretary General for Legal Affairs*, 5 June 2015; **D95/12**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 1 June 2015; **D95/11**, *ICIJ's Letter to Secretary General of United Nations*, 3 April 2015; **D95/10**, *ICIJ's Letter to the Ambassador of the Socialist Republic of Vietnam in Cambodia*, 6 February 2015; **D95/9**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 17 July 2014; **D95/8**, *ICIJ's Letter to Secretary General of United Nations*, 6 June 2014; **D95/7**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 7 April 2014; **D95/6**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 2 April 2014; **D95/5**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 17 March 2014; **D95/3**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 4 March 2014; **D95/4**, *ICIJ's Letter to the Ambassador of the Socialist Republic of Vietnam in Cambodia*, 4 March 2014; **D95/14/1**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 21 January 2014; **D95/14**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 15 January 2014; **D95/2**, *ICIJ's Letter to the Ambassador of the Socialist Republic of Vietnam in Cambodia*, 11 November 2013; **D95/1**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 11 November 2013; **D95**, *International Rogatory Letter (Vietnam)*, 11 November 2013. **Thailand:** Pursuant to Rogatory Letter D96: **D96/12**, *ICIJ's Letter to Under Secretary General for Legal Affairs*, 5 June 2015; **D96/11**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 1 June 2015; **D96/10**, *ICIJ's Letter to Secretary General of United Nations*, 3 April 2015; **D96/9**, *ICIJ's Letter to the Ambassador of the Kingdom of Thailand in Cambodia*, 12 February 2015; **D96/8**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 17 July 2014; **D96/7**, *ICIJ's Letter to Secretary General of United Nations*, 6 June 2014; **D96/6**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 7 April 2014; **D96/5**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation*, 2 April 2014; **D96/4**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 17 March 2014; **D96/3/1**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 21 January 2014; **D96/3**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 21 January 2014; **D96/3**, *ICIJ's Letter to Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 21 January 2014.





## 5 FACTUAL ANALYSIS AND FINDINGS

### 5.1 RAK structure and Meas Muth's roles and responsibilities

#### 5.1.1 RAK and Central/Standing Committees

149. The Revolutionary Army of Kampuchea (“RAK”) was responsible for building the country and defending the state<sup>277</sup> against both external and internal “enemies”,<sup>278</sup> as set out in further detail below.<sup>279</sup>
150. The RAK was under “the absolute leadership monopoly” of the CPK.<sup>280</sup> The CPK’s Central Committee (consisting of the highest ranking Party members including Pol Pot, Ieng Sary, Son Sen, Vorn Vet, Khieu Samphan, and Nuon Chea)<sup>281</sup> was tasked with the organisation of the RAK,<sup>282</sup> however, its Standing Committee (including Pol Pot, Nuon

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*Foreign Affairs and International Cooperation*, 15 January 2014; **D96/2**, *ICIJ’s Letter to the Ambassador of the Kingdom of Thailand in Cambodia*, 15 November 2013; **D96/1**, *ICIJ’s Letter to Ministry of Foreign Affairs and International Cooperation*, 15 November 2013; **D96**, *International Rogatory Letter (Thailand)*, 15 November 2013. Pursuant to Rogatory Letter **D97**: **D97/13**, *ICIJ’s Letter to Under Secretary General for Legal Affairs*, 5 June 2015; **D97/12**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 1 June 2015; **D97/11**, *ICIJ’s Letter to Secretary General of United Nations*, 3 April 2015; **D97/10**, *ICIJ’s Letter to the Ambassador of the Kingdom of Thailand in Cambodia*, 12 February 2015; **D97/9**, *Response of Mr. Miguel de Serpa Soares on behalf of Secretary General*, 17 July 2014; **D97/8**, *ICIJ’s Letter to Secretary General of United Nations*, 6 June 2014; **D97/7**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 7 April 2014; **D97/6**, *ICIJ’s Letter to Ministry of Foreign Affairs and International Cooperation*, 2 April 2014; **D97/5**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 17 March 2014; **D97/4**, *ICIJ’s Letter to the Ambassador of the Kingdom of Thailand in Cambodia*, 4 March 2014; **D97/3**, *ICIJ’s Letter to Ministry of Foreign Affairs and International Cooperation*, 4 March 2014; **D97/14/1**, *Response of Ministry of Foreign Affairs and International Cooperation to the ICIJ*, 21 January 2014; **D97/14**, *ICIJ’s Letter to Ministry of Foreign Affairs and International Cooperation*, 15 January 2014; **D97/2**, *ICIJ’s Letter to the Ambassador of the Kingdom of Thailand in Cambodia*, 15 November 2013; **D97/1**, *ICIJ’s Letter to Ministry of Foreign Affairs and International Cooperation*, 15 November 2013; **D97**, *International Rogatory Letter (Thailand)*, 15 November 2013.

<sup>275</sup> **D210**, *Rogatory Letter Completion Report*, 22 September 2016.

<sup>276</sup> **D181/1**, *Notice of Unsuccessful Attempt to Obtain Strictly Confidential United Nations’ Archive Materials*, 3 May 2016; **D181/1.1**, *Letter from the United Nations’ Under-Secretary-General for Legal Affairs*, 26 April 2016.

<sup>277</sup> **D1.3.22.2**, *Constitution of Democratic Kampuchea*, 6 January 1976, ERN 00184837-00184838, Article 19.

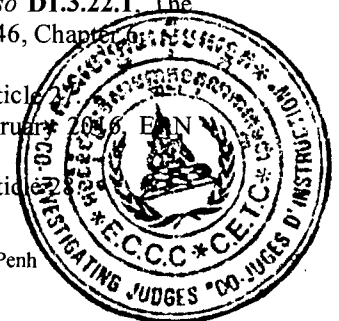
<sup>278</sup> **D4.1.861**, *The Revolutionary Flag*, Issue 8, 8 August 1975, ERN 00401501; **D1.3.27.10**, *Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions, Secretaries and Deputy Secretaries of Regiments*, 2 August 1976, ERN 00656578; **D1.3.27.26**, *Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments*, 1 March 1977, ERN 00933844; **D1.3.27.19**, *Minutes of the Meeting on Production Work*, 30 September 1976, ERN 00184823; **D1.3.27.26**, *Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments*, 1 March 1977, ERN 00933836; **D1.3.27.4**, *Minutes of the Meeting of DK People’s Assembly*, 13 April 1976, ERN 00184055. See also **D1.3.22.1**, *The Communist Party of Kampuchea Statute*, January 1976, ERN 00184025, para. 6, ERN 00184046, Chapter 6.

<sup>279</sup> See *Factual findings on JCE*, paras 177-184.

<sup>280</sup> **D1.3.22.1**, *The Communist Party of Kampuchea Statute*, January 1976, ERN 00184046, Article 19.

<sup>281</sup> **D114/158**, *Written Record of Interview of Witness Kaing Guek Eav alias Duch*, 1 February 2006, ERN 01213416, A35.

<sup>282</sup> **D1.3.22.1**, *The Communist Party of Kampuchea Statute*, January 1976, ERN 00184046, Article 19.



Chea, Ieng Sary, and Son Sen (alternate member))<sup>283</sup> exercised *de facto* control.<sup>284</sup> The Central Committee was also assisted, among other committees, by a military committee chaired by Pol Pot, with **Meas Muth** and Sou Met among the four assistants to that committee.<sup>285</sup> This placed them in the fourth highest level or echelon of the Party.<sup>286</sup> As an assistant, **Meas Muth** attended training programmes with the senior members of the CPK.<sup>287</sup> Further, in late 1978, he became a reserve member of the Central Committee.<sup>288</sup>

151. As of April 1975, all divisions were under the control of the zone leadership,<sup>289</sup> the level of organisation immediately subordinate to the Central Committee.<sup>290</sup> In July 1975, the armed forces were reorganised and a number of divisions, including Divisions 164, 310, and 502, were placed under the authority of the newly established General Staff, headed by Son Sen ("*Brother 89*"), and itself subordinate to the Central and Military Committees.<sup>291</sup> The armed forces were further reorganised in September-

<sup>283</sup> **D4.1.400**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 19 November 2008, ERN 00242874; **D1.3.33.3**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 7 August 2007, ERN 00147521; **D1.3.33.15**, Written Record of Interview of Charged Person Khieu Samphan, 13 December 2007, ERN 00156750.

<sup>284</sup> **D98/1.2.42**, Transcript of Hearing on the Substance in Case 002 [David Chandler], 24 July 2012, ERN 00828843, lines 3-8; **D1.3.33.15**, Written Record of Interview of Charged Person Khieu Samphan, 13 December 2007, ERN 00156750; **D1.3.33.11**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 23 August 2007, ERN 00147570; **D234/2.1.52**, Written Record of Analysis by Craig Etcheson, 18 July 2007, ERN 00142827, para. 6; **D54/74.1.20**, Philip Short, *Pol Pot: The History of a Nightmare*, 2004, John Murray Publishers, The United Kingdom, ERN 00396195.

<sup>285</sup> **D98/3.1.133**, Transcript of Hearing on the Substance in Case 002 [Nuon Chea], 11 January 2012, ERN 00768379; **D114/158**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 1 February 2016, ERN 01213415-01213416, A33; **D114/159**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 February 2016, ERN 01213419-01213420, A3-A4; **D1.3.33.10**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 2 June 2008, ERN 00195577.

<sup>286</sup> **D1.3.33.13**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 4 December 2007, ERN 00154911; **D1.3.33.11**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 23 August 2007, ERN 00147570-00147571.

<sup>287</sup> **D114/158**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 1 February 2016, ERN 01213415, A32; **D114/159**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 February 2016, ERN 01213420, A4, ERN 01213421, A10.

<sup>288</sup> **D114/159**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 February 2016, ERN 01213422, A18. *See also* **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148763, A32.

<sup>289</sup> **D98/3.1.105**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 25 November 2009, ERN 00406692; **D114/42**, Written Record of Interview of Witness Suos Thy, 5 February 2015, ERN 01079257, A9.

<sup>290</sup> **D1.3.22.1**, The Communist Party of Kampuchea Statute, January 1976, ERN 00184038, Article 7.

<sup>291</sup> **D98/1.2.20**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 28 March 2012, ERN 00796353-00796354; **D4.1.861**, The Revolutionary Flag, Issue 8, 8 August 1975, ERN 00401488; **D98/1.2.18**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 26 March 2012, ERN 00795066; **D114/42**, Written Record of Interview of Witness Suos Thy, 5 February 2015, ERN 01079257, A10; **D4.1.408**, Written Record of Interview of Witness Chhouk Rin, 21 May 2008, ERN 00268869; **D4.1.94**, Written Record of Interview of Witness Sokh Chhien, 19 August 2009, ERN 00374948; **D4.1.94**, Written Record of Interview of Witness Sokh Chhien, 19 August 2009, ERN 00374948; **D4.1.94**, Written Record of Interview of Witness Sokh Chhien, 19 August 2009, ERN 00374948.



October 1975 when the Standing Committee called for the building of a new army, navy, and air force.<sup>292</sup>

152. Thereafter, while all RAK units were ultimately under General Staff command,<sup>293</sup> some were directly subordinated to it, with others remaining under zone leadership.<sup>294</sup> The General Staff also had command over S-21 Security Centre.<sup>295</sup>

153. In both the military and civilian apparatus, the CPK implemented a strict hierarchical command and reporting protocol: each level was only permitted to communicate with the levels immediately above and/or below.<sup>296</sup>

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Record of Interview of Witness Kaing Guek Eav alias Duch, 4 June 1999, ERN 00326763; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055472, A69-A71; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982727, A23; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180852-01180853, A12; **D114/82**, Written Record of Interview of Witness Keo San, 10 June 2015, ERN 01123315-01123316, A11; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170539, A129-A130; **D4.1.400**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 19 November 2008, ERN 00242881; **D4.1.1106**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 18 February 2008, ERN 00164329; **D4.1.403**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 25 November 2008, ERN 00242900; **D114/277.8**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 20 June 2016, ERN 01336109, lines 10-16; **D98/3.1.306**, Transcript of Hearing on the Substance in Case 002 [Ung Ren], 9 January 2013, ERN 00878681, lines 9-10; **D1.3.19.1**, Decision of the Central Committee regarding a number of matters, 30 March 1976, ERN 00182814; **D4.1.764**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 20 October 2009, ERN 00398163.

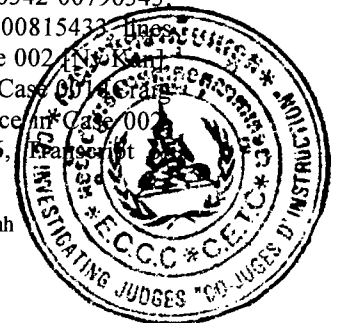
<sup>292</sup> **D1.3.27.1**, Minutes of the Meeting of the Standing Committee, 9 October 1975, ERN 00183397-00183402, ERN 00183405; **D4.1.805**, Written Record of Interview of Witness Chhaom Se, 8 November 2009, ERN 00406222-00406223, A3; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180853, A16.

<sup>293</sup> **D54/51**, Written Record of Interview of Witness Meas Voeun, 15 January 2014, ERN 00978408, A4; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982727, A23; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170540, A135-A137, A139; **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184778-01184779, A47; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148776-01148777, A145-A156.

<sup>294</sup> **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076845, A27, ERN 01076852, A58; **D114/199**, Written Record of Interview of Witness Sreng Thy, 7 April 2016, ERN 01300059-01300060, A10, ERN 01300061, A22-A23; **D54/54**, Written Record of Interview of Witness Meas Voeun, 20 January 2014, ERN 00978530, A4; **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076744, A4-A6; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180851, A9; **D114/82**, Written Record of Interview of Witness Keo San, 10 June 2015, ERN 01123315-01123316, A10-A11.

<sup>295</sup> See *S-21 Security Centre*, para. 164.

<sup>296</sup> **D1.3.22.1**, The Communist Party of Kampuchea Statute, January 1976, ERN 00184037, Article 6(4)-(5), ERN 00184040, Article 10(2)(B), ERN 00184042, Article 13(4), ERN 00184043, Article 16(4), ERN 00184044, Article 19(4), ERN 00184046, Article 28; **D98/1.2.20**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 28 March 2012, ERN 00796339-00796340, ERN 00796342-00796343; **D98/1.2.32**, Transcript of Hearing on the Substance in Case 002 [Sao Sarun], 6 June 2012, ERN 00815433, lines 17-21, ERN 00815435, lines 6-15; **D98/3.1.248**, Transcript of Hearing on the Substance in Case 002 [Nuon Kant], 30 May 2012, ERN 00812648, lines 5-20; **D98/1.2.4**, Transcript of Hearing on the Substance in Case 002 [Etcheson], 21 May 2009, ERN 00330384; **D98/3.1.117**, Transcript of Hearing on the Substance in Case 002 [Suon Kanil], 14 December 2012, ERN 00872237-00872238, ERN 00872248; **D98/3.1.116**, Transcript of



### 5.1.2 Division 164 structure

154. Division 3 of the Southwest Zone became Division 164.<sup>297</sup> In April 1975, Division 3 troops advanced into Phnom Penh and within days of 17 April 1975 were sent to Kampong Som in quick successive stages.<sup>298</sup> Soldiers from other units were also sent to Kampong Som and placed under the command of Division 3, namely from Sector 37 in the West Zone,<sup>299</sup> and a large number from Sector 22 and Regiment 152 in the East Zone.<sup>300</sup> Between September 1975 and early 1976, a new Division 164 was created from the core structure of Division 3 and its newly subordinated units.<sup>301</sup> It consisted of three infantry regiments (Regiments 61, 62, and 63), a newly formed naval regiment (Regiment 140), and several independent battalions.<sup>302</sup> Each regiment was subdivided into battalions, companies, and platoons.<sup>303</sup>

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Hearing on the Substance in Case 002 [Phan Van], 13 December 2012, ERN 00871871-00871872; **D98/3.1.90**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 9 June 2009, ERN 00339359-00339360; **D98/1.2.46**, Transcript of Hearing on the Substance in Case 002 [Norng Sophang], 4 September 2012, ERN 00846229, lines 5-19; **D98/3.1.316**, Transcript of Hearing on the Substance in Case 002 [Yun Kim], 19 June 2012, ERN 00819642-00819643; **D98/3.1.178**, Transcript of Hearing on the Substance in Case 002 [Meas Voeun], 4 October 2012, ERN 00853294-00853295; **D98/3.1.306**, Transcript of Hearing on the Substance in Case 002 [Ung Ren], 9 January 2013, ERN 00878650, lines 1-6; **D98/3.1.307**, Transcript of Hearing on the Substance in Case 002 [Ung Ren], 10 January 2013, ERN 00878989, lines 1-14, ERN 00879008, ERN 00879026-00879027; **D98/3.1.28**, Transcript of Hearing on the Substance in Case 002 [Chhouk Rin], 23 April 2013, ERN 00904618-00904619, ERN 00904632-00904633; **D4.1.1056**, Written Record of Interview of Witness Chuon Thi, 2 March 2010, ERN 00513318, A18.

<sup>297</sup> **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076845, A27-A28; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180851, A9.

<sup>298</sup> **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251768-01251769, A16-A17; **D114/132**, Written Record of Interview of Witness Mao Ran, 6 October 2015, ERN 01172481-01172482, A13-A22.

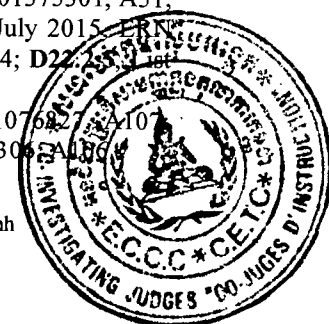
<sup>299</sup> **D54/76**, Written Record of Interview of Witness Uy Nhik, 31 March 2014, ERN 00987489, A7, A9; **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170521, A14; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475847, A5.

<sup>300</sup> **D54/95**, Written Record of Interview of Witness Khun Than, 21 May 2014, ERN 01074487-01074488, A8, A10-A11, ERN 01074490, A20; **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20; **D54/96**, Written Record of Interview of Witness Teng Sarim, 22 May 2014, ERN 010744500, A12, ERN 01074501, A17-A18, ERN 01074502, A20-A21; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074507, A1-A2, ERN 01074508, A5-A8, ERN 01074510-01074511, A11-A12.

<sup>301</sup> **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20; **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288, A2; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180853, A16; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170530, A14.

<sup>302</sup> **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613019-00613020, A16-A19; **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375301, A51, ERN 01375303, A78; **D114/95**, Written Record of Interview of Witness Yoem Sroeng, 27 July 2015, ERN 01137189, A38; **D22.2.4**, List of forces for 1976 of Division 164, 30 July 1976, ERN 00950654; **D22.2.4**, List of army forces of unit 164, 28 August 1976, ERN 00950656.

<sup>303</sup> **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076845, A27-A28; **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375301, A51, ERN 01375303, A78.



155. Division 164 was a 'Centre division', reporting directly to the General Staff.<sup>304</sup> It was the largest division in the DK military, numbering approximately 8,500,<sup>305</sup> and notably included the DK Navy,<sup>306</sup> along with land forces,<sup>307</sup> artillery,<sup>308</sup> radar,<sup>309</sup> and logistics units.<sup>310</sup> It also operated its own detention facilities.<sup>311</sup> Its area of operations encompassed the Kampong Som Region<sup>312</sup> which covered Ream,<sup>313</sup> Stung Hav,<sup>314</sup> as

<sup>304</sup> **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977259, A3; **D54/24**, Written Record of Interview of Witness Pak Sok, 17 October 2013, ERN 00977544, A16; **D54/50**, Written Record of Interview of Witness Meas Voeun, 14 January 2014, ERN 00978399-00978400, A5-A6; **D54/54**, Written Record of Interview of Witness Meas Voeun, 20 January 2014, ERN 00978530-00978531, A4-A6; **D114/84**, Written Record of Interview of Witness Ek Sophal, 12 June 2015, ERN 01119965, A18; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180851, A9.

<sup>305</sup> **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180852-01180853, A12; **D54/39.1**, Statistic of forces, 7 April 1977, ERN 01109103; **D22.2.5**, List of army forces, 28 August 1976, ERN 00950656-00950657; **D22.2.6**, List of daily forces, 27 November 1976, ERN 00575528-00575531; **D54/39.1**, Statistic of forces, 7 April 1977, ERN 01109103.

<sup>306</sup> **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613019-00613020, A14-A19; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977528-00977529, A1; **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044921, A11, 01044922, A17-A18; **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375301, A51, ERN 01375303, A78; **D114/95**, Written Record of Interview of Witness Yoem Sroeng, 27 July 2015, ERN 01137189, A38.

<sup>307</sup> **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613019-00613020, A14-A19; **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373292, A43; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987498, A14-A16.

<sup>308</sup> **D54/36**, Written Record of Interview of Witness Prak Sokha, 13 November 2013, ERN 00977299, A2, ERN 00977304, A37; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987498-00987499, A16-A18; **D54/20**, Written Record of Interview of Witness Som Saom, 19 August 2013, ERN 00977293, A7; **D114/58**, Written Record of Interview of Witness Som Saom, 20 March 2015, ERN 01089949, A46; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128178, A19.

<sup>309</sup> **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613020, A22, 00613022, A41; **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628184, A8; **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044925-01044926, A37; **D114/19**, Written Record of Interview of Witness Mak Chhoeun, 22 October 2014, ERN 01040438-01040439, A21; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251775, A78-A79.

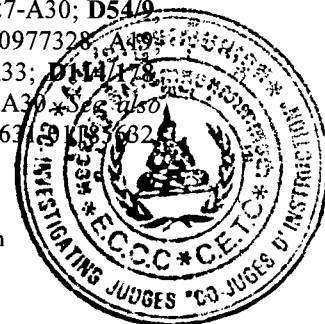
<sup>310</sup> **D54/17**, Written Record of Interview of Witness Born Say, 14 August 2013, ERN 00977271, A10; **D54/20**, Written Record of Interview of Witness Som Saom, 19 August 2013, ERN 00977295, A14; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055467, A32-A35; **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373293, A53.

<sup>311</sup> See *Stung Hav Worksites*, paras 355, 386-394, *Toek Sap Security Centre*, paras 403-425, *Wat Enta Nhen Security Centre*, paras 426-443.

<sup>312</sup> **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168418, A137; **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288, A1; **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375301, A49.

<sup>313</sup> **D54/46**, Written Record of Interview of Witness Em Sun, 26 November 2013, ERN 00974933, A25; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 0987498, A14-A16; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509-01074510, A10; **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375301, A49-A50.

<sup>314</sup> **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013, ERN 00977317, A27-A30; **D54/9**, Written Record of Interview of Witness Min Phon, 21 June 2013, ERN 00977325, A5, ERN 00977328, A49; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987501, A33; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226278, A30; **D114/146**, Written Record of Interview of Witness Uy Nhoek, 14 December 2015, ERN 01185631, A52-A53.



well as the coastal waters and the islands off the coast of DK.<sup>315</sup> Division 164 also had a “special unit”, Battalion 450, which received orders directly from **Meas Muth** and was responsible for “defence” or “security”.<sup>316</sup>

### 5.1.3 Meas Muth’s authority as Division Commander

156. **Meas Muth**, Ta Mok’s son-in-law,<sup>317</sup> became Commander of Division 3 prior to April 1975, continued as Commander when it became Division 164,<sup>318</sup> and exercised and discharged the powers and duties of a division commander.<sup>319</sup> More specifically, he

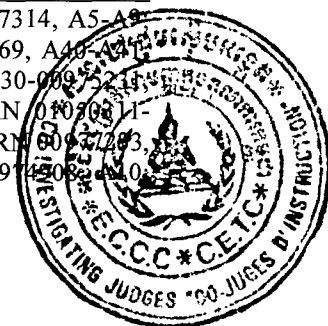
<sup>315</sup> **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977713, A6; **D54/51**, Written Record of Interview of Witness Meas Voeun, 15 January 2014, ERN 00978410-00978411, A17; **D54/104**, Written Record of Interview of Witness Ek Ny, 3 June 2014, ERN 01008087, A16; **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288, A1; **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375301, A49, ERN 01375302, A65-A66.

<sup>316</sup> **D54/46**, Written Record of Interview of Witness Em Sun, 26 November 2013, ERN 00974936, A38; **D54/49**, Written Record of Interview of Witness Em Sun, 29 November 2013, ERN 00974974, A48; **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN, 00628187-00628188, A22-A23; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055475-01055476, A94-A95; **D114/187**, Written Record of Interview of Witness Touch Soeuly, 14 March 2016, ERN 01442855, A9, ERN 01442857, A17-A18; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076845-01076846, A28.

<sup>317</sup> **D114/82**, Written Record of Interview of Witness Keo San, 10 June 2015, ERN 01123315, A8; **D54/53**, Written Record of Interview of Witness Meas Voeun, 17 January 2014, ERN 00978526, A28-A29.

<sup>318</sup> **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977528, A1; **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118162-01118163, A46; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128186, A15; **D114/18**, Written Record of Interview of Witness Makat Chhoeun, 21 October 2014, ERN 01040422, A2-A6; **D114/48**, Written Record of Interview of Witness Sok Ngon, 18 February 2015, ERN 01076706, A8-A9; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180850-01180851, A5-A7; **D114/181**, Written Record of Interview of Witness Sem Kol, 1 March 2016, ERN 01226305-01226306, A6-A9; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251768-01251769, A16-A17; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170530, A14, ERN 01170540, A133-A134; **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975216, A5; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076848, A38; **D114/132**, Written Record of Interview of Witness Mao Ran, 6 October 2015, ERN 01172482, A17, ERN 01172486, A46; **D54/24**, Written Record of Interview of Witness Pak Sok, 17 October 2013, ERN 00977544, A19; **D54/44**, Written Record of Interview of Witness Lon Seng, 11 December 2013, ERN 00975229, A19; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055469, A45; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076813-01076814, A26-A27; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148761, A17; **D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978513, A16; **D114/261**, Written Record of Interview of Witness Chum Chy, 14 September 2016, ERN 01479444-01479445, A7; **D54/24.2**, Attachment 3, 27 October 1976, ERN 00955522.

<sup>319</sup> Commanded military operations: D114/297.1.21, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412792-01412793. *See also Crimes Committed by the DK Navy*, paras 217-247. Visited and inspected locations in area of responsibility: see Kang Keng and Bet Trang (Ream Area) Worksites, para. 354, *Stung Hav Worksites*, para. 402. Held meetings and organised trainings for subordinates: D54/8, Written Record of Interview of Witness Dol Song, 19 June 2013, ERN 00977313-00977314, A5-A8; **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977869, A40-A41; **D54/44**, Written Record of Interview of Witness Lon Seng, 11 December 2013, ERN 00975230-00975231, A22-A29; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050312, A30-A34; **D54/10**, Written Record of Interview of Witness Meu Ret, 22 June 2013, ERN 00977283, A10; **D54/30**, Written Record of Interview of Witness Soem Ny, 6 November 2013, ERN 00977283, A10.



also issued orders regarding arrests and killings in relation to naval operations,<sup>320</sup> and reported to the General Staff regarding levels of rice production.<sup>321</sup>

157. As Commander of a 'Centre division', **Meas Muth** reported to Son Sen and the General Staff.<sup>322</sup> Hoeng Doeun, commonly known as "*Dim*", and Chhan were **Meas Muth's** deputies until the beginning of 1977, when they were arrested and killed at S-21.<sup>323</sup> Witnesses identify various cadres who then and later became **Meas Muth's** deputies, some who served short periods before being sent to S-21. Nhan, Saroeun, Seng, Yan, and Nget are all identified as deputies during DK, however, the evidence is unclear on their dates of service.<sup>324</sup>

**D54/28**, Written Record of Interview of Witness Liet Lan, 23 October 2013, ERN 00976567, A14; **D54/17**, Written Record of Interview of Witness Say Born, 14 August 2013, ERN 00977270-00977271, A6-A10; **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977855-00977856, A15-A18; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076814-01076816, A31-A38; **D114/25**, Written Record of Interview of Civil Party Applicant Ou Dav, 3 November 2014, ERN 01055686-01055687, A12-A14; **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025183-01025184, A7-A8; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170537-01170538, A99-A109; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115935, A44-A45; **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375312, A156. Escorted visiting dignitaries: **D54/92**, Written Record of Interview of Witness Yem Sam On, 8 May 2014, ERN 01055523-01055524, A49-A53; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076812, A19; **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044928-01044929, A51-A54; **D54/112**, Written Record of Interview of Witness Long Chhea, 8 July 2014, ERN 01022573, A205-A213. Attended meetings with other military leaders: **D54/29**, Written Record of Interview of Witness Liet Lan, 24 October 2013, ERN 00976573, A3; **D54/37**, Written Record of Interview of Witness Soem Ny, 13 November 2013, ERN 00969996, A30. *See also Factual findings on JCE*, paras 186, 188.

<sup>320</sup> *See Crimes committed by the DK Navy*, paras 219, 221.

<sup>321</sup> **D1.3.27.22**, Minutes of the Plenary of the brigade/division committees/commanders, 21 November 1976, ERN 00656384.

<sup>322</sup> **D54/11**, Written Record of Interview of Witness Meu Ret, 23 June 2013, ERN 00977243, A19-A20; **D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978512, A13; **D54/54**, Written Record of Interview of Witness Meas Voeun, 20 January 2014, ERN 00978531, A5; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055472-01055473, A69-A74; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148763, A32, ERN 01148765, A46, 01148777, A154-A155; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170540, A136-A137; **D114/159**, Written Record of Interview of Witness Kaing Guek Eav, 2 February 2016, ERN 01213424-01213425, A28.

<sup>323</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222401, n. 1624, ERN 01222908, n. 14156. **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180852-01180853, A12; **D114/85**, Written Record of Interview of Witness Chet Bunna, 15 June 2015, ERN 01119971, A10, ERN 01119972-01119973, A19-A27; **D114/261**, Written Record of Interview of Witness Chum Chy, 14 September 2016, ERN 01479450, A38; **D234/2.1.92**, Transcript of Hearing on the Substance in Case 002/02 [Prum Sarat], 26 January 2016, ERN 01408419; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412629; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001469-01001470, A1-A2; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395462-01395463, A12-A13, ERN 01395466, A17; **D114/220**, Written Record of Interview of Witness San Chuon, 16 June 2016, ERN 01395484-01395485, A23, A27, ERN 01395488, A47.

<sup>324</sup> **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170539, A126; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977528-00977529, A11.



158. As Commander of Division 164, **Meas Muth** oversaw the DK Navy which was responsible for protecting the country's territorial waters.<sup>325</sup>

*5.1.4 Meas Muth's position as the Secretary of Kampong Som Autonomous Sector*

159. **Meas Muth**'s authority was far more extensive than most other division commanders; he was also Secretary of the Kampong Som Autonomous Sector,<sup>326</sup> which reported directly to the Party Centre.<sup>327</sup> Hence he also controlled civilian activities in the Sector, including cooperatives.<sup>328</sup> Krin and Launh were his civilian deputies in relation to Kampong Som Port.<sup>329</sup>

**D54/113**, Written Record of Interview of Witness Leang Bea, 28 July 2014, ERN 01134966, A80-A81; **D2/16**, Written Record of Interview of Witness Touch Soeuli, 11 November 2010, ERN 00629463, A12; **D54/24**, Written Record of Interview of Witness Pak Sok, 17 October 2013, ERN 00977544, A19; **D54/81**, Written Record of Interview of Witness Hing Uch, 22 April 2014, ERN 01056690-01056691, A14; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055470, A53; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076847, A35; **D54/101**, Written Record of Interview of Witness Ek Ny, 2 April 2014, ERN 01001465, A9; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001469-01001470, A1; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180852-01180853, A12; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116298, A35-A36, ERN 01116312, A267; **D114/95**, Written Record of Interview of Witness Yoem Sroeng, 27 July 2015, ERN 01137193, A64-A66, ERN 01137214, A225; **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373277, A12.

<sup>325</sup> **D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978511, A6, ERN 00978512, A12; **D54/54**, Written Record of Interview of Witness Meas Voeun, 20 January 2014, ERN 00978531, A5; **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977862, A11; **D54/51**, Written Record of Interview of Witness Meas Voeun, 15 January 2014, ERN 00978408-00978409, A7, ERN 00978411-00978412, A18; **D114/49**, Written Record of Interview of Witness Prum Ngon, 19 February 2015, ERN 01076721, A17.

<sup>326</sup> **D114/266.1.2**, Zone Leadership of the Communist Party of Kampuchea and the People's Committees, 6 August 1978, ERN 01519466; **D114/159**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 February 2016, ERN01213421, A10; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180851-01180852, A9-A10; **D22.1.10**, FBIS Collection, December 1977, ERN 00168349-00168350; **D1.3.30.29**, Interviews with Kampuchean Refugees at Thai-Cambodia Border, Prepared for the Ishiyama Committee Annual Report, 8 March 1980, ERN 00170723; **D54/31**, Written Record of Interview of Witness Soem Ny, 7 November 2013, ERN 00974914-00974915, A10-A12.

<sup>327</sup> **D1.3.22.1**, The Communist Party of Kampuchea Statute, January 1976, ERN 00184039, Article 8; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076814, A28-A30; **D98/3.1.316**, Transcript of Hearing on the Substance in Case 002 [Yun Kim], 19 June 2012, ERN 00819642-00819643.

<sup>328</sup> **D114/159**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 February 2016, ERN 01213421, A10; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977532, A15; **D114/25**, Witness Record of Interview of Civil Party Applicant Ou Dav, 3 November 2014, ERN 01055685, A8; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053540, A14-A15; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050329, A151-A154; **D54/24**, Written Record of Interview of Witness Pak Sok, 17 October 2013, ERN 00977544, A20; **D54/104**, Written Record of Interview of Witness Ek Ny, 3 June 2014, ERN 01008086-01008087, A14, A16; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180851-01180852, A9.

<sup>329</sup> **D54/31**, Written Record of Interview of Witness Soem Ny, 7 November 2013, ERN 00974914-00974915, A10-A12; **D54/47**, Written Record of Interview of Witness Em Sun, 27 November 2013, ERN 00974916-00974917, A31.





160. Kampong Som Autonomous Sector's area largely reflected the reach of Division 164, and encompassed Kampong Som town, Ream, and the islands off the DK coast.<sup>330</sup>
161. **Meas Muth** was in charge of worksites and projects run by the military using primarily civilians, and a number of soldiers, as their workforce,<sup>331</sup> and he had the authority to arrest and order the execution not only of soldiers but also civilians.<sup>332</sup>

#### 5.1.5 Meas Muth's role within the General Staff

162. In addition to controlling the military and civilian affairs in the Kampong Som area, **Meas Muth** served as one of Son Sen's deputies from the establishment of the DK Navy, and, from, the establishment of the General Staff Committee, as a reserve member.<sup>333</sup>

#### 5.1.6 Assignment to Kratie and the East Zone

163. While **Meas Muth** was also assigned by Son Sen to assist or command specific military operations for the General Staff,<sup>334</sup> there is no evidence that he was at any time relieved of his positions as Division 164 Commander or Kampong Som Autonomous Sector Secretary. In late 1978, **Meas Muth** was sent to Kratie and was closely involved

<sup>330</sup> **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180851-01180852, A9-A10.

<sup>331</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, paras 339-341, *Stung Hav Worksites*, para. 364.

<sup>332</sup> **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180851, A9; **D114/159**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 February 2016, ERN 01213426, A30-A35; **D54/104**, Written Record of Interview of Witness Ek Ny, 3 June 2014, ERN 01008086-01008087, A14, A16.

<sup>333</sup> **D114/159**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 February 2016, ERN 01213422-01213423, A18, A23; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982727, A22-A23, ERN 00982728-00982729, A25-A26; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180851-01180853, A9-A10, A12-A13; **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01237988, A25; **D114/285**, Written Record of Interview of Witness Bun Sarath, 29 November 2016, ERN 01375316-01375317, A206-A207; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251781, A129-A130; **D54/37**, Written Record of Interview of Witness Soem Ny, 13 November 2013, ERN 00969996, A30-A31; **D54/63**, Written Record of Interview of Witness Moeng Vet, 14 February 2014, ERN 00982737, A11, ERN 00982741, A31; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076825, A96; **D54/29**, Written Record of Interview of Witness Liet Lan, 24 October 2013, ERN 00976573, A3; **D114/158**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 1 February 2016, ERN 01213413, A24; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076845-01076846, A28.

<sup>334</sup> **D54/29**, Written Record of Interview of Witness Liet Lan, 24 October 2013, ERN 00976574-00976575, A10; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982727-00982728, A22, A25; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055472-01055473, A73-A75.



in the removal and replacement of the leadership of Division 117.<sup>335</sup> Around that time, Division 164 soldiers were also sent to assist Division 117 to fight the Vietnamese.<sup>336</sup>

### 5.1.7 S-21 Security Centre

#### 5.1.7.1 Structure and operations

164. The S-21 Security Centre commenced operations no later than October 1975.<sup>337</sup> It remained in operation until and including 6 January 1979.<sup>338</sup> It was an independent regiment under the General Staff but also under the control of the CPK Standing Committee regarding its security function, i.e., to interrogate those identified by the Standing Committee as enemies, extract confessions, kill them and report those to the Standing Committee.<sup>339</sup> Confessions typically contained implications of other persons alleged to have engaged in ‘enemy’ activities.<sup>340</sup> Nath was S-21 Chairman until March 1976, when his deputy, Kaing Guek Eav alias Duch, took over until the end of DK.<sup>341</sup> The S-21 Secretary reported to the Standing Committee and the Chief of the General Staff, Son Sen, until the second half of 1977; thereafter reports were sent to Nuon

<sup>335</sup> See *Purge of Division 117*, paras 324-327.

<sup>336</sup> **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982729, A26-27, ERN 00982731, A36; **D54/63**, Written Record of Interview of Witness Moeng Vet, 14 February 2014, ERN 00982739, A21-A24; **D54/108**, Written Record of Interview of Witness Sao Sam, 19 June 2014, ERN 01089955, A2; **D54/109**, Written Record of Interview of Witness Sao Sam, 20 June 2014, ERN 01088480, A23-A25; **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076753, A56; **D54/29**, Written Record of Interview of Witness Liet Lan, 24 October 2013, ERN 00976575-00976576, A14-A17.

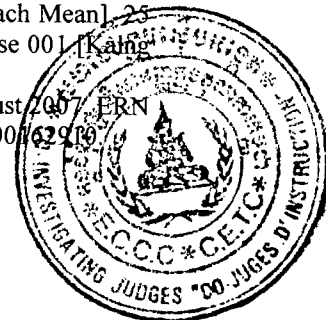
<sup>337</sup> 15 August 1975 meeting: **D114/277.2**, Transcript of Hearing on the Substance in Case 002/02 [Kaing Guek Eav alias Duch], 8 June 2016, ERN 01312917-01312918; **D98/1.2.16**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 20 March 2012, ERN 00792977-00792978; **D98/3.1.81**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 22 April 2009, ERN 00322617-00322618. October 1975: **D98/3.1.81**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 22 April 2009, ERN 00322620-00322622; **D4.1.1116**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 22 November 2007, ERN 00153567; **D1.3.33.3**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 7 August 2007, ERN 00147520. Surviving documents from late August and September 1975 show that some operations had already begun by that time, see e.g., **D10.1.108**, S-21 Confession of Um Soeun, ERN 00825365-00825417.

<sup>338</sup> See para. 167.

<sup>339</sup> **D4.1.1106**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 18 February 2008, ERN 00164328-00164329; **D98/3.1.83**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 27 April 2009, ERN 00322880; **D4.1.1122**, Answers of Duch to the 13 Written Questions of the CIJ, 21 October 2008, ERN 00251380, para. D; **D114/37.2.1**, Transcript of Hearing on the Substance in Case 001 [Agreed Facts], 1 April 2009, ERN 00302097, lines 13-20; **D114/93**, Written Record of Interview of Witness Him Houy, 21 July 2015, ERN 01134921, A20. See also **D1.3.30.9**, Joint Statistics of Armed Forces, March 1977, ERN 00183956.

<sup>340</sup> **D98/3.1.212**, Transcript of Hearing on the Substance in Case 001 [Prak Khan], 21 July 2009, ERN, 00355127, lines 12-15; **D234/2.1.110**, Transcript of Hearing on the Substance in Case 002/02 [Lach Mean], 25 April 2016, ERN 01252574-01252576; **D98/3.1.94**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 16 June 2009, ERN 00341982.

<sup>341</sup> **D1.3.33.3**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 7 August 2007, ERN 00147519; **D4.1.346**, Written Record of Interview of Witness Mam Nai, 7 November 2007, ERN 00162919.



Chea.<sup>342</sup> The records of S-21 do not include those prisoners who were less than fifteen years of age.<sup>343</sup>

165. Almost all detainees were interrogated, accompanied by beatings, electrocution, suffocation, and/or what is now known as ‘water-boarding’.<sup>344</sup> Interrogations were conducted in order to extract confessions and identify a network of alleged traitors,<sup>345</sup> to be arrested and brought to S-21.<sup>346</sup> Annotations on the confession of Leang, the former Division 117 Deputy Commander, state that he was “*tortured*” for half a month.<sup>347</sup>

166. Conditions of detention were horrendous: while some inmates were held in individual cells, most were in groups of 20 to 30, feet shackled to the floor day and night.<sup>348</sup> Detainees required permission to relieve themselves in ammunitions boxes or plastic

<sup>342</sup> **D1.3.33.5**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 5 September 2007, ERN 00147583; **D234/2.1.114**, Transcript of Hearing on the Substance in Case 002/02 [Prak Khan], 2 May 2016, ERN 01301072; **D98/1.2.21**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 29 March 2012, ERN 00796901; **D114/277.1**, Transcript of Hearing on the Substance in Case 002/02 [Kaing Guek Eav alias Duch], 7 June 2016, ERN 01310499; **D1.3.33.3**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 7 August 2007, ERN 00147522.

<sup>343</sup> **D114/43**, Written Record of Interview of Witness Suos Thy, 6 February 2015, ERN 01079271, A20.

<sup>344</sup> **D114/277.3**, Transcript of Hearing on the Substance in Case 002/02 [Kaing Guek Eav alias Duch], 9 June 2016, ERN 01319819-01319821, ERN 01319824-01319825; **D98/1.2.19**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 27 March 2012, ERN 00795577-00795579; **D10.1.64**, Accused’s Final Written Submission, 25 November 2009, ERN 00412114; **D98/3.1.94**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 16 June 2009, ERN 00342032-00342034; **D1.3.33.3**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 7 August 2007, ERN 00147524; **D234/2.1.111**, Transcript of Hearing on the Substance in Case 002/02 [Lach Mean], 26 April 2016, ERN 01297656-01297657, ERN 01297664; **D98/3.1.257**, Transcript of Hearing on the Substance in Case 001 [Saom Met], 11 August 2009, ERN 00363707; **D98/3.1.212**, Transcript of Hearing on the Substance in Case 001 [Prak Khan], 21 July 2009, ERN 00355132, ERN 00355140-00355141; **D114/37.1.66**, Written Record of Interview of Witness Nhep Hau, 19 October 2007, ERN 00401790, ERN 00401795; **D234/2.1.106**, Transcript of Hearing on the Substance in Case 002/02 [Chum Mey], 18 April 2016, ERN 01249097, ERN 01249121-01249122.

<sup>345</sup> **D98/1.2.19**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 27 March 2012, ERN 00795578-00795579; **D98/3.1.94**, Transcript of the Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 16 June 2009, ERN 00342032-00342034; **D4.1.405**, Written Record of Interview of Charged Person Duch, 28 November 2008, ERN 00244243; **D234/2.1.110**, Transcript of Hearing on the Substance in Case 002/02 [Lach Mean], 25 April 2016, ERN 01252574; **D234/2.1.112**, Transcript of Hearing on the Substance in Case 002/02 [Prak Khan], 27 April 2016, ERN 01298615, lines 9-18.

<sup>346</sup> **D234/2.1.112**, Transcript of Hearing on the Substance in Case 002 [Prak Khan], 27 April 2016, ERN 01298615, lines 9-18; **D4.1.405**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 28 November 2008, ERN 00244243; **D234/2.1.116**, Transcript of Hearing on the Substance in Case 002/02 [Him Huy], 4 May 2016, ERN 01302828-01302829.

<sup>347</sup> See the annotations on the S-21 confession, **D114/160.2**, Attachment 2: Document of Rath Leang, Sub-Secretary of Division 117, 16 May 2017 (filing date), ERN 01461914.

<sup>348</sup> **D98/3.1.93**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 15 June 2009, ERN 00341724; **D98/3.1.8**, Transcript of Hearing on the Substance in Case 001 [Bou Meng], 1 July 2009, ERN 00346679-00346680; **D98/3.1.34**, Transcript of Hearing on the Substance in Case 001 [Chum Mey], 30 June 2009, ERN 00346506; **D98/3.1.29**, Transcript of Hearing on the Substance in Case 001 [Chhun Phai], 10 August 2009, ERN 00361864, lines 18-19; **D98/3.1.212**, Transcript of Hearing on the Substance in Case 001 [Prak Khan], 21 July 2009, ERN 00355153, lines 14-25.



jugs,<sup>349</sup> as well as to drink or even sit up.<sup>350</sup> Food was insufficient,<sup>351</sup> and inmates had no opportunity to wash themselves other than being simply hosed down on an irregular basis.<sup>352</sup> Minimal or no medical treatment was given, and many developed illnesses.<sup>353</sup> Some were subjected to medical experiments and forced blood-drawing.<sup>354</sup>

167. Release of S-21 prisoners after Duch became chairman (March 1976)<sup>355</sup> was “very rare”; those detained were killed, nearly without exception.<sup>356</sup> While the final list of prisoners to be “*smashed*” was drawn up on 31 December 1978,<sup>357</sup> Duch recalls receiving and executing an order to “*smash*” all prisoners in the first few days of January 1979, in addition to a mass execution in December 1978.<sup>358</sup> One witness saw the killing of many prisoners in the days prior to 7 January 1979,<sup>359</sup> while an S-21 survivor stated that there were only approximately 13 workers alive when the

<sup>349</sup> **D98/3.1.93**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 15 June 2009, ERN 00341727, lines 11-14; **D98/3.1.8**, Transcript of Hearing on the Substance in Case 001 [Bou Meng], 1 July 2009, ERN 00346680.

<sup>350</sup> **D98/3.1.34**, Transcript of Hearing on the Substance in Case 001 [Chum Mey], 30 June 2009, ERN 00346537; **D98/3.1.93**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 15 June 2009, ERN 00341725; **D98/3.1.8**, Transcript of Hearing on the Substance in Case 001 [Bou Meng], 1 July 2009, ERN 00346681.

<sup>351</sup> **D98/3.1.29**, Transcript of Hearing on the Substance in Case 001 [Chhun Phal], 10 August 2009, ERN 00361864, lines 4-5, ERN 00361866, lines 8-9; **D98/3.1.8**, Transcript of Hearing on the Substance in Case 001 [Bou Meng], 1 July 2009, ERN 00346681; **D98/3.1.212**, Transcript of Hearing on the Substance in Case 001 [Prak Khan], 21 July 2009, ERN 00355152, lines 17-19.

<sup>352</sup> **D98/3.1.93**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 15 June 2009, ERN 00341725-00341726; **D98/3.1.212**, Transcript of Hearing on the Substance in Case 001 [Prak Khan], 21 July 2009, ERN 00355152.

<sup>353</sup> **D98/3.1.212**, Transcript of Hearing on the Substance in Case 001 [Prak Khan], 21 July 2009, ERN 00355153; **D98/3.1.93**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 15 June 2009, ERN 00341778, lines 2-16.

<sup>354</sup> **D98/3.1.94**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 16 June 2009, ERN 00342052.

<sup>355</sup> **D114/37.2.1**, Transcript of Hearing on the Substance in Case 001 [Agreed Facts], 1 April 2009, ERN 00302086, lines 10-12.

<sup>356</sup> **D98/3.1.93**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 15 June 2009, ERN 00341721; **D1.3.33.5**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 5 September 2007, ERN 00147582; **D55/8.1.1**, Transcript of Hearing on the Substance in Case 001 [Craig Etcheson], 19 May 2009, ERN 00328939, lines 9-16; **D234/2.1.112**, Transcript of Hearing on the Substance in Case 002/02 [Prak Khan], 27 April 2016, ERN 01298642-01298643; **D234/2.1.118**, Transcript of Hearing on the Substance in Case 002/02 [Suos Thy], 2 June 2016, ERN 01306774-01306776.

<sup>357</sup> **D234/2.1.119**, Transcript of Hearing on the Substance in Case 002/02 [Suos Thy], 3 June 2016, ERN 01307290-01307291, ERN 01307294, lines 8-17.

<sup>358</sup> **D114/277.9**, Transcript of Hearing on the Substance in Case 002/02 [Kaing Guek Eav alias Duch], 22 June 2016, ERN 01337883-01337885; **D10.1.112**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 24 January 2008, ERN 00160724; **D10.1.118**, Written Record of Confrontation, 29 February 2008, ERN 00166563; **D1.3.33.11**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 23 August 2007, ERN 00147565-00147567; **D1.3.33.3**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 7 August 2007, ERN 00147520.

<sup>359</sup> **D4.1.378**, Written Record of Interview of Witness Kung Phai, 27 December 2007, ERN 00163635; **D10.1.118**, Written Record of Confrontation, 29 February 2008, ERN 00166564.



Vietnamese arrived.<sup>360</sup> It is therefore highly likely that all remaining prisoners at S-21 were killed in the days prior to the arrival of the Vietnamese forces on 7 January 1979.

5.1.7.2 Meas Muth's knowledge and involvement

168. Confessions were sent to Son Sen or Nuon Chea, and then often relayed to the division commander or unit chief of persons implicated;<sup>361</sup> while Duch states that prior to subsequent arrests “it was compulsory to consult the head of his unit”,<sup>362</sup> the evidence does not allow such an exhaustive conclusion. Duch also states that Son Sen made the decisions regarding arrests and transfers to S-21.<sup>363</sup> Nevertheless, annotations by Son Sen on the confession of the Division 164 Deputy Commander, Dim, seek **Meas Muth's** comment, while annotations on another confession mentioning Division 164 instruct that **Meas Muth** should be contacted “so that he can take measures”.<sup>364</sup> **Meas Muth** read Dim and Norng Chhan's confessions at a meeting near Kang Keng Airfield in 1977.<sup>365</sup>
169. **Meas Muth** denied in a media interview that he had any contact with Duch, or knew anything about the CPK security apparatus, and alleged that Duch was responsible for arrests from Division 164,<sup>366</sup> diverging from an earlier statement that no-one in

<sup>360</sup> **D98/3.1.313**, Transcript of Hearing on the Substance in Case 001 [Vann Nath], 29 June 2009, ERN 00345709-00345710.

<sup>361</sup> **D114/277.5**, Transcript of Hearing on the Substance in Case 002/02 [Kaing Guek Eav alias Duch], 14 June 2016, ERN 01330823; **D4.1.860**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 11 November 2009, ERN 00403918; **D4.1.1156**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 15 July 2008, ERN 00205162. See e.g. **D1.3.1.10**, S-21 Confession of Srei Sareuan Annotations, 19 October 1977, ERN 00824789; **D1.3.1.5**, S-21 Confession of Nay Cha, 27 August 1977, ERN 00814489; **D4.1.35**, S-21 Confession of Sieng Phon alias Pha, 28 October 1977, ERN 00842803; **D10.1.1**, S-21 Confession of Yung Peou, 24 April 1977, ERN 00182829; **D1.3.18.4**, S-21 Confession of Kung Kien alias Eung Vet, 16 May 1977, ERN 00822048. See also **D98/3.1.20**, Transcript of Hearing on the Substance in Case 002 [Chhaom Se], 11 January 2013, ERN 00879915.

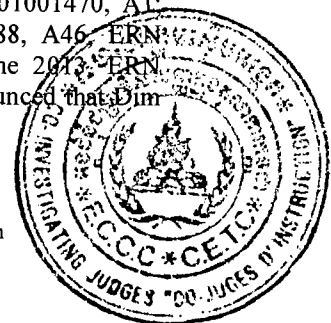
<sup>362</sup> **D4.1.400**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 19 November 2008, ERN 00242880.

<sup>363</sup> **D98/1.2.6**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 27 May 2009, ERN 00334539-00334540.

<sup>364</sup> **D234/2.1.55**, S-21 Confession of Hoeng Doeun alias Dim Annotations, 8 May 1977, ERN 00224085; **D4.1.766**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 21 October 2009, ERN 00398210; **D234/2.1.54**, S-21 Confession of Kun Dim Annotations, 10 September 1977, ERN 00822359. See also **D98/1.2.2**, Transcript of Hearing on the Substance in Case 001 [Craig Etcheson], 19 May 2009, ERN 00328896.

<sup>365</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001469-01001470, A1; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128188, A46-ERN 01128189, A56-A63. See also **D54/13**, Written Record of Interview of Pres Mean, 26 June 2013, ERN 00977258, A1, ERN 00977260, A10-A13, ERN 00977261, A16 (stating that **Meas Muth** announced that Dim had been arrested as a traitor at a meeting in mid-1977).

<sup>366</sup> **D1.3.7.8**, National Media Article, 1 March 2008, ERN 00165821.



Division 164 was arrested.<sup>367</sup> These are partly contradictory statements to begin with, and, as far as **Meas Muth** denies knowledge of S-21 and the security apparatus, are not credible given the evidence related to Son Sen requesting his comments; they were made before, or at a very early stage of, the investigation and most likely intended to deflect any suspicion of responsibility in the public eye.

170. All acts and events that occurred at S-21 will be dealt with in the sections relating to the individual crime sites or crimes charged.

## 5.2 Factual findings on JCE

171. The evidence supports the conclusion that between 17 April 1975 and lasting until at least 6 January 1979, **Meas Muth**, together with Son Sen, Ta Mok, Sou Met, and other senior RAK staff, shared the common purpose of implementing the following CPK policies:<sup>368</sup>

- i. establishing cooperatives and forced labour worksites;
- ii. re-educating 'bad elements' and killing 'enemies' both inside and outside the military;
- iii. targeting specific groups, in particular those of Vietnamese and Thai ethnicity or nationality (both real and perceived) as well as current or former military personnel, and civilians; and
- iv. implementing the forced marriage of civilians and members of the RAK.

172. In order to avoid duplication, reference is made to the description and analysis of the underlying crime sites and theatres of operation, see:

- i. Crimes committed by the DK Navy, paragraphs 217-257;
- ii. Durian Plantation Killing Site, paragraphs 258-269;
- iii. Crimes against members of Divisions 164, 502, 310, 117, paragraphs 270-329;
- iv. Kang Keng and Bet Trang (Ream Area) Worksites, paragraphs 330-354;

<sup>367</sup> **D22.2.180**, Statement of Meas Muth in Interview from Phnom Penh Post, 2 August 2001, ERN 001610.

<sup>368</sup> **D174**, *Written Record of Initial Appearance of Meas Muth*, 14 December 2015, p. 9.



- v. Stung Hav Worksites, paragraphs 355-402;
- vi. Toek Sap Security Centre, paragraphs 403-425;
- vii. Wat Enta Nhien Security Centre, paragraphs 426-443; and
- viii. Forced Marriage in Kampong Som, paragraphs 444-455.

5.2.1 The CPK policy on the establishment and operation of 'cooperatives' and forced labour worksites

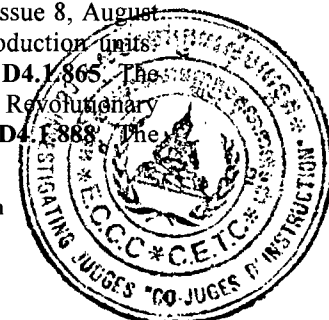
173. DK was a socialist state based on the collective organisation of labour.<sup>369</sup> Starting in 1972-1973, the CPK gradually banned private ownership and abolished private markets and currency in the areas of Cambodia under its control.<sup>370</sup> The CPK's establishment of cooperatives and worksites began around 1973.<sup>371</sup> The CPK considered the establishment of cooperatives as a fundamental and necessary step to eliminate private ownership and build socialism; consequently, all property, including food, was collectivised.<sup>372</sup> In this manner, the CPK intended to increase agricultural production,<sup>373</sup>

<sup>369</sup> **D1.3.22.2**, Constitution of Democratic Kampuchea, 6 January 1976, ERN 00184834, Article 2, ERN 00184835, Article 4; **D1.3.22.1**, The Communist Party of Kampuchea Statute, January 1976, ERN 00184024, ERN 00184037, Article 6.

<sup>370</sup> **D54/74.1.12**, The 3<sup>rd</sup> anniversary of the farmer collective organizing, 20 May 1976, ERN 00636009, ERN 00636037; **D4.1.861**, The Revolutionary Flag, Issue 8, August 1975, ERN 00401484; **D4.1.882**, The Revolutionary Flag, Issues 2 and 3, February–March 1976, ERN 00517819; **D4.1.885**, The Revolutionary Flag, Issue 8, August 1976, ERN 00486745-00486746. *c.f.* The CPK developed a “*new riel*” currency with the intention of distributing it: **D4.1.921**, Governing and carrying out policy and restoring all fields of the country (3<sup>rd</sup> document), 19 September 1975, ERN 00523584-00523586. **D4.1.886**, The Revolutionary Flag, Special Issue, September–October 1976, ERN 00450513; **D64.1.27**, Foreign Broadcast Information Service collection, May 1977, ERN 00168146; **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491424; **D4.1.48**, The Revolutionary Youth, Number 12, December 1975, ERN 00363425.

<sup>371</sup> **D54/74.1.12**, The 3<sup>rd</sup> anniversary of the farmer collective organizing, 20 May 1976, ERN 00636009-00636011; **D98/3.1.316**, Transcript of Hearing on the Substance in Case 002 [Yun Kim], 19 June 2012, ERN 00819624, lines 14-25, ERN 00819625, lines 1-18; **D98/3.1.130**, Transcript of Hearing on the Substance in Case 002 [Em Oeun], 23 August 2012, ERN 00841919, line 15-18, ERN 00841920, lines 4-8; **D64.1.27**, Foreign Broadcast Information Service Collection, 23 May 1977, ERN 00168146; **D4.1.864**, The Revolutionary Flag, Special Issue, September 1977, ERN 00486252, ERN 00486256; **D4.1.1013**, Role of special military, sector military, guerrilla, 5 August 1978, ERN 00574566.

<sup>372</sup> **D54/74.1.12**, The 3<sup>rd</sup> anniversary of the farmer collective organizing, 20 May 1976, ERN 00636015, ERN 00636037; **D4.1.872**, The Revolutionary Flag, Special Issue, October–November 1975, ERN 00495826; **D54/74.1.15**, Khieu Samphan, “*Cambodia's recent history and the reasons behind the decisions I made*”, 7 July 2004, ERN 00103753, ERN 00103778; **D4.1.48**, The Revolutionary Youth, Number 12, December 1975, ERN 00363425; **D1.3.22.1**, The Communist Party of Kampuchea Statute, January 1976, ERN 00184047, Article 29; **D1.3.22.2**, Constitution of Democratic Kampuchea, 6 January 1976, ERN 00184834, Article 2; **D4.1.872**, The Revolutionary Flag, Special Issue, October–November 1975, ERN 00495818, ERN 00495823; **D4.1.885**, The Revolutionary Flag, Issue 8, August 1976, ERN 00486744; **D4.1.861**, The Revolutionary Flag, Issue 8, August 1975, ERN 00401482, ERN 00401487. *See also* the CPK considered cooperatives to be production units: **D4.1.864**, The Revolutionary Flag, Special Issue, September 1977, ERN 00486252-00486253; **D4.1.865**, The Revolutionary Flag, Special Issue, October–November 1977, ERN 00182594; **D4.1.886**, The Revolutionary Flag, Special Issue, September–October 1976, ERN 00450511-00450512, ERN 00450538; **D4.1.888**, The



and to monitor people's allegiance to the Party, to educate workers politically, and to eliminate perceived enemies.<sup>374</sup>

174. Initially, cooperatives were made up of 10 to 30 families. After April 1975, the CPK reorganised its approach and by 1976, entire villages of hundreds and even thousands of families became part of the cooperative model,<sup>375</sup> covering agriculture, industry, and handicraft.<sup>376</sup>

175. The goal of the CPK was to transform DK into a modern agricultural society. Over a projected period of 10-15 years, it set production quotas in every sphere of the economy.<sup>377</sup> In 1976, the production target was three tonnes of rice per hectare, in order to support a projected population of 15-20 million people.<sup>378</sup> This increasing agricultural production was intended to be achieved without machinery and regardless of the consequences to the health and lives of the workers,<sup>379</sup> in order to achieve

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Revolutionary Flag, Special Issue, December 1976–January 1977, ERN 00491400, ERN 00491422, ERN 00491424.

<sup>373</sup> **D234/2.1.17**, Strengthening and consolidating the analysis of all situations and problems based on the stance of the party's proletariat class, 17 April 1975, ERN 00716395-00716396; **D1.3.27.4**, Document on Conference I of Legislature I of the People's Representative Assembly of Kampuchea, 11-13 April 1976, ERN 00184057, ERN 00184070; **D4.1.579**, Telegram #94 to Brother Pol: Report to Brother about enemy, people, and production situation in north region, 2 April 1976, ERN 00182658-00182659.

<sup>374</sup> **D4.1.37**, Follow-up of implementation of the political line in mobilizing the National Democratic Front Forces of the Party, 22 September 1975, ERN 00244276; **D4.1.65**, Minutes of the Standing Committee's visit to the Southwest Zone, 20-24 August 1975, ERN 00183001-00183003; **D114/36.1.5**, FBIS Founding of Peasants' Cooperatives Hailed, 21 May 1976, ERN 00168018; **D1.3.14.3**, Telegram 60: To Beloved and Missed Committee 870 about overall situation, 5 September 1977, ERN 00517924.

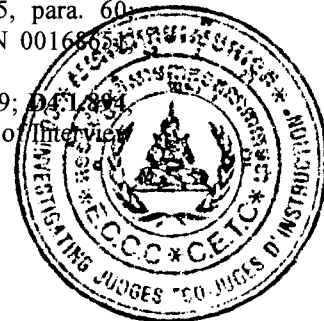
<sup>375</sup> **D4.1.861**, The Revolutionary Flag, Issue 8, August 1975, ERN 00401507-00401508; **D4.1.872**, The Revolutionary Flag, Special Issue, October–November 1975, ERN 00495827; **D69.1.42**, Khieu Samphan, "Consideration on the history of Cambodia from Early stage to the Period of Democratic Kampuchea", Reahu, October 2007, ERN 00498284. See also **D64.1.27**, Foreign Broadcast Information Service Collection, 23 May 1977, ERN 00168146.

<sup>376</sup> **D4.1.865**, The Revolutionary Flag, Special Issue, October–November 1977, ERN 00182594.

<sup>377</sup> **D4.1.921**, CPK Document entitled "Governing and carrying out policy and restoring all fields of the county (3<sup>rd</sup> document)", 19 September 1975, ERN 00523569; **D4.1.872**, The Revolutionary Flag, Special Issue, October–November 1975, ERN 00495826.

<sup>378</sup> Production target: **D1.3.27.9**, Minutes of the Standing Committee Meeting, 30 May 1976, ERN 00182669-00182670; **D4.1.872**, The Revolutionary Flag, Special Issue, October–November 1975, ERN 00495813, 00495815; **D4.1.875**, The Revolutionary Youth, Issue 2, February 1976, ERN 00583759; **D4.1.882**, The Revolutionary Flag, Issues 2 and 3, February–March 1976, ERN 00517837; **D1.3.24.1**, The Revolutionary Youth, Issue 5, May 1976, ERN 00357870; **D4.1.885**, The Revolutionary Flag, Issue 8, August 1976, ERN 00486751; **D4.1.921**, Governing and carrying out policy and restoring all fields of the country (3<sup>rd</sup> document), 19 September 1975, ERN 00523588; **D4.1.76**, Minutes of second meeting of ministers, 31 May 1976, ERN 00182681; **D4.1.865**, The Revolutionary Flag, Special Issue, October–November 1977, ERN 00182555. Projected population of 20 million people: **D4.1.189**, Suspect Statement of Ieng Sary alias Van entitled "UN General Assembly", 32nd Session, 28th plenary Meeting, 11 October 1977, ERN 00079815, para. 60; **D114/36.1.8**, Foreign Broadcast Information Service Collection of Reports, October 1977, ERN 00168653; ERN 00168718.

<sup>379</sup> **D64.1.30**, Foreign Broadcast Information Service collection, 25 February 1977, ERN 00168429; **D4.1.884**, The Revolutionary Youth, Number 11, November 1978, ERN 00524167; **D4.1.817**, Written Record of Interview





another of the CPK's goals, namely to export large quantities of rice in order to obtain foreign currency to fund the revolution and to "achieve international influence", thereby implying that production was sufficient for the needs of the Cambodian population.<sup>380</sup>

176. Large numbers of people were relocated from cities to the countryside.<sup>381</sup> In the cooperatives, CPK cadres decided both where and with whom workers would live, including separating family members,<sup>382</sup> restricting workers' freedom of movement,<sup>383</sup> and deciding their working hours and the quantity of food they would receive.<sup>384</sup> Khieu Samphan, a senior CPK leader and member of the Standing Committee, acknowledged that people in cooperatives and worksites were not free.<sup>385</sup> Families could no longer dine together but were forced to eat as part of the collective in communal meals.<sup>386</sup> Food and healthcare provision were inadequate.<sup>387</sup> No-one was paid for their work.<sup>388</sup>

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of Witness Bun Thien, 17 August 2009, ERN 00384407; **D4.1.45**, The Revolutionary Youth, Numbers 1-2, January-February 1978, ERN 00278727; **D234/2.1.33**, International Media Report "Phnom Penh Rally Marks 17<sup>th</sup> April Anniversary", 18 April 1978, ERN 00010564; **D4.1.873**, The Revolutionary Youth, Issue 8, August 1975, ERN 00532694; **D4.1.50**, The Revolutionary Youth, Special Number, 1 April 1976, ERN 00392436-00392437; **D4.1.986**, Khieu Samphan's Speech at Anniversary Meeting, 19 April 1977, ERN 00419514.

<sup>380</sup> **D4.1.887**, The Revolutionary Flag, Issue 11, November 1976, ERN 00455284-00455285; **D4.1.38**, David P. Chandler and Ben Kiernan, "Pol Pot Plans the Future Confidential Leadership Documents from Democratic Kampuchea", Yale University Southeast Asia Studies, New Haven, ERN 00103996, pp. xiv-xv, ERN 00104071, p. 148; **D4.1.903**, Nuon Chea's speech at Army Anniversary Meeting, 20 June 1977, ERN 00004076.

<sup>381</sup> **D4.1.65**, Minutes of the Standing Committee's visit to the Southwest Zone, 20-24 August 1975, ERN 00183001; **D4.1.882**, The Revolutionary Flag, Issues 2 and 3, February-March 1976, ERN 00517837; **D4.1.784**, Written Record of Interview of Witness Pech Chim, 26 August 2009, ERN 00379308.

<sup>382</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, paras 334, 342, 348, *Stung Hav Worksites*, paras 366, 371. See also **D114/33**, Written Record of Interview of Witness Ang Hem, 24 December 2014, ERN 01074460, A217-A219; **D4.1.552**, Written Record of Interview of Witness Kev Ne, 18 December 2008, ERN 00327168.

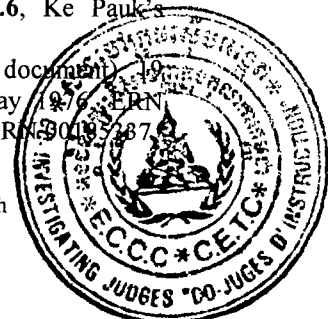
<sup>383</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, para. 346, *Stung Hav Worksites*, para. 375. See also **D114/33**, Written Record of Interview of Witness Ang Hem, 24 December 2014, ERN 01074466, A265-A267; **D114/166**, Written Record of Interview of Witness Phin Yeang, 3 February 2016, ERN 01223459, A30; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076770, A92.

<sup>384</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, paras 342-343, 345, 347, *Stung Hav Worksites*, paras 372-373, 378-379. See also **D4.1.538**, Written Record of Interview of Witness Chum Lorn, 19 November 2008, ERN 00250066; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207327-01207328, A97-A101. See also **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491402; **D4.1.921**, Governing and carrying out policy and restoring all fields of the country (3<sup>rd</sup> document), 19 September 1975, ERN 00523590; **D1.3.24.5**, The Revolutionary Flag, Special Issue, May-June 1978, ERN 00185328, ERN 00185337.

<sup>385</sup> **D4.1.965**, Suspect Statement of Khieu Samphan and Nuon Chea, 9-11 June 2006, ERN 00000928. See also **D69.1.42**, Khieu Samphan, "Consideration on the history of Cambodia from Early stage to the Period of Democratic Kampuchea", Reahu, October 2007, ERN 00498303.

<sup>386</sup> **D4.1.48**, The Revolutionary Youth, Number 12, 12 December 1975, ERN 00363427; **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491400; **D4.1.6**, Ke Pauk's Autobiography from 1949-1985, ERN 00089712.

<sup>387</sup> **D4.1.921**, Governing and carrying out policy and restoring all fields of the country (3<sup>rd</sup> document), 19 September 1975, ERN 00523590; **D4.1.76**, Minute of second meeting of ministers, 31 May 1976, ERN 00182682, ERN 00182689; **D1.3.24.5**, The Revolutionary Flag, Special Issue, May-June 1978, ERN 00185328, ERN 00185337.



177. As set out above, under the CPK Statute and the Constitution of DK, the RAK's duty was to defend DK, and to "[build] *the country*".<sup>389</sup> RAK soldiers were thus in principle required to participate in agricultural projects and other types of work when they were not fighting or performing other military duties.<sup>390</sup> For the Kampong Som Region, the evidence indicates that only a minority of active soldiers were actually engaged in agricultural production or other work, with the vast majority of the workforce being demobilised troops and civilians.<sup>391</sup>
178. On 1 June 1976, Son Sen, the RAK's Chief of Staff,<sup>392</sup> informed the RAK's division commanders to increase rice production to three tonnes per hectare under the new target set by the CPK.<sup>393</sup> **Meas Muth** and Sou Met attended this meeting and reported on the agricultural production in their areas of responsibility.<sup>394</sup> On 18 August 1976, during another meeting of military leaders from throughout the country, Son Sen introduced the CPK's four-year plan to meet these production quotas.<sup>395</sup> During further military meetings, Son Sen stressed to his division secretaries the importance of achieving the quota of three tonnes of rice per hectare and self-sufficiency and set specific quotas for the different RAK divisions.<sup>396</sup> Division secretaries, including Sou Met and **Meas**

<sup>388</sup> **D4.1.886**, The Revolutionary Flag, Special Issue, September–October 1976, ERN 00450513; **D4.1.871**, The Revolutionary Flag, Issue 9, September 1978, ERN 00488635.

<sup>389</sup> **D1.3.22.1**, The Communist Party of Kampuchea Statute, January 1976, ERN 00184032, Article 2; **D1.3.22.2**, Constitution of Democratic Kampuchea, 6 January 1976, ERN 00184837-00184838, Article 19. See *RAK structure and Meas Muth's roles and responsibilities*, para. 149.

<sup>390</sup> **D4.1.873**, The Revolutionary Youth, Issue 8, August 1975, ERN 00532694.

<sup>391</sup> **D1.3.27.9**, Minutes of the Standing Committee Meeting, 30 May 1976, ERN 00182667-00182670. See *Kang Keng and Bet Trang (Ream Area) Worksites*, para. 339, *Stung Hav Worksites*, para. 364.

<sup>392</sup> See *Son Sen's role in RAK structure and Meas Muth's roles and responsibilities*, para. 151.

<sup>393</sup> **D1.3.8.2**, Minutes of the Meeting of All Division Committees, 1 June 1976, ERN 00233954. See also **D4.1.872**, The Revolutionary Flag, Special Issue, October–November 1975, ERN 00495813, ERN 00495815; **D4.1.885**, The Revolutionary Flag, Issue 8, 1 August 1978, ERN 00486751; **D4.1.871**, The Revolutionary Flag, Issue 9, 1 September 1978, ERN 00488633; **D4.1.921**, Governing and carrying out policy and restoring all fields of the country (3<sup>rd</sup> document), 19 September 1975, ERN 00523588; **D4.1.76**, Minutes of second meeting of ministers, 31 May 1976, ERN 00182681; **D4.1.865**, The Revolutionary Flag, Special Issue, October–November 1977, ERN 00182555.

<sup>394</sup> **D1.3.8.2**, Minutes of the Meeting of All Division Committees, 1 June 1976, ERN 00233955-00233959; **D1.3.27.18**, Minutes of Meeting of Secretaries and Logistics of Divisions and Independent Regiments, 19 September 1976, ERN 00195339-00195354.

<sup>395</sup> **D1.3.27.12**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 18 August 1976, ERN 00234456-00234457.

<sup>396</sup> **D114/36.1.3**, Minutes of the Meeting of All Division Committees, 1 June 1976, ERN 00143489-00143494; **D1.3.27.10**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions, Secretaries and Deputy Secretaries of Regiments, 2 August 1976, ERN 00656576-00656577; **D1.3.8.2**, Minutes of the Meeting of All Division Committees, 1 June 1976, ERN 00233956; **D1.3.27.12**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 18 August 1976, ERN 00234457; **D1.3.27.24**, Note of meeting of division chiefs about food production, enemy situation, and list of names of division chiefs, 21 November 1976, ERN 00656376-00656392; **D1.3.27.24**, Minutes of Meeting of Division Chiefs, 16 December 1976 about Situation of enemy, Situation of unit, Situation of food and clothes, Other problem, 16 December 1976



**Muth**, regularly reported on the quantities of rice produced.<sup>397</sup> Son Sen also stressed the importance of using agriculture as a means of ensuring loyalty and political education.<sup>398</sup> Soldiers considered to be 'no-good elements' were to be identified and assigned to a single production unit.<sup>399</sup>

179. With the shortage of food and medical supplies, people in cooperatives and worksites went hungry and became ill.<sup>400</sup> Consequently, the CPK production targets were not met. These problems were frequently reported by various division commanders and military officials in meetings and through telegrams.<sup>401</sup>

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ERN 00923162; **D1.3.27.25**, Minutes of the Meeting of Division 801 about the Situation of enemy, Situation of unit, Situation of food, Other problem, 16 December 1976, ERN 00874988; **D1.3.19.2**, To beloved Committees of Divisions and Regiments, 3 September 1977, ERN 00590300.

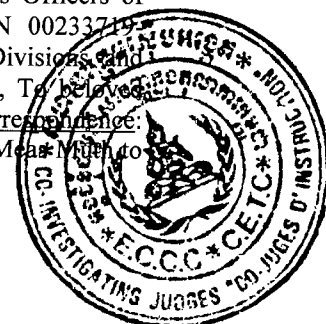
<sup>397</sup> **D1.3.8.2**, Minutes of the Meeting of All Division Committees, 1 June 1976, ERN 00233958; **D1.3.8.3**, DK Military Meeting Minutes regarding Deployment of the DK Navy, 3 August 1976, ERN 00234012, ERN 00234014-00234016; **D1.3.27.8**, Minutes of the Meeting of Secretaries and Economics of Divisions, 16 May 1976, ERN 00923159; **D1.3.27.10**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Brigades, Secretaries and Deputy Secretaries of Regiments, 2 August 1976, ERN 00656569-00656577; **D1.3.27.11**, Minutes of the Meeting of the Committees Attached to Divisions and Independent Regiments, 12 August 1976, ERN 00183962-00183963; **D1.3.27.12**, Minutes of the Meeting of Division and Independent Regiment Secretaries and Deputy Secretaries, 18 August 1976, ERN 00234456-00234457; **D1.3.27.18**, Minutes of the Meeting of Secretaries and Logistics of Divisions and Independent Regiments, 19 September 1976, ERN 00195339-00195348, ERN 00195350-00195352; **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940336, ERN 00940356-00940358; **D1.3.27.23**, Minutes of Meeting of Secretaries and Logistics Officers of Divisions and Independent Regiments, 15 December 1976, ERN 00233710-00233717, ERN 00233719-00233720; **D1.3.27.26**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 1 March 1977, ERN 00933833-00933837, ERN 00933845.

<sup>398</sup> **D1.3.27.10**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions, Secretaries and Deputy Secretaries of Regiments, 2 August 1976, ERN 00656579.

<sup>399</sup> **D1.3.8.4**, Minutes of the Meeting of Comrades 164, 9 September 1976, ERN 00657356.

<sup>400</sup> **D4.1.538**, Written Record of Interview of Witness Chum Lorn, 19 November 2008, ERN 00250066, ERN 00250068.

<sup>401</sup> Meeting Minutes and reports: **D1.3.27.8**, Minutes of the Meeting of Secretaries and Economics of Divisions, 16 May 1976, ERN 00923159; **D1.3.8.2**, Minutes of the Meeting of All Division Committees, 1 June 1976, ERN 00233957-00233959; **D234/2.1.18**, Note of Secretary, Logistics Unit and Independence regiment Meeting about production situation, 27 June 1976, ERN 00543724; **D1.3.27.10**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Brigades, Secretaries and Deputy Secretaries of Regiments, 2 August 1976, ERN 00656569-00656577; **D1.3.8.3**, Minutes of meeting regarding Deployment of the DK Navy, 3 August 1976, ERN 00234015; **D1.3.27.11**, Minutes of the Meeting of the Committees Attached to Divisions and Independent Regiments, 12 August 1976, ERN 00183962-00183963; **D1.3.27.12**, Minutes of the Meeting of Division and Independent Regiment Secretaries and Deputy Secretaries, 18 August 1976, ERN 00234456-00234458; **D1.3.27.18**, Minutes of Meeting of Secretaries and Logistics of Divisions and Regiments, 19 September 1976, ERN 00195339-00195352; **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940336, ERN 00940355-00940358; **D1.3.27.22**, Note of meeting chief's divisions about production of food, enemy situation, and name list of chief's division, 21 November 1976, ERN 00656384; **D1.3.27.23**, Minutes of Meeting of Secretaries and Logistics Officers of Divisions and Independent Regiments, 15 December 1976, ERN 00233710-00233717, ERN 00233719-00233720; **D1.3.27.26**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 1 March 1977, ERN 00933833-00933837, ERN 00933845; **D1.3.19.2**, To beloved Committees of Divisions and Regiments, 3 September 1977, ERN 00590300. Telegram correspondence: **D114/19.1**, Report to Brother 89, 5 January 1976, ERN 01513919; **D4.1.1020**, Telegram sent by Mea Muth to



180. **Meas Muth** implemented the CPK's plan and reported the results to Son Sen.<sup>402</sup> **Meas Muth** himself stated that his rice field production workforce amounted to 17,000 people.<sup>403</sup> In the area of responsibility of Division 164, and as set out in detail below, people were forced to work long hours in agriculture, construction, quarrying, and other labour-intensive tasks.<sup>404</sup> If workers did not meet the production targets, they would be punished with different degrees of severity.<sup>405</sup> It was not uncommon for workers to faint or collapse at the worksites due to exhaustion and/or lack of food.<sup>406</sup> Workers were denied freedom of movement and some were under surveillance.<sup>407</sup>

### 5.2.2 The 're-education' of 'bad elements' and killing of 'enemies' both inside and outside the military

#### 5.2.2.1 CPK policy on 'bad elements' and 'enemies'

181. Throughout the DK period, a hostile environment was created for people considered to be opposing the Regime. The policy to destroy 'enemies' was initiated in 1960<sup>408</sup> and evolved over time as a result of domestic and external developments.<sup>409</sup> This policy was authorised under Article 10 of the DK Constitution, which stated that "*dangerous activities in opposition to the people's State must be condemned to the highest degree*".<sup>410</sup> Those opposing the Party were labelled 'bad elements',<sup>411</sup> or 'enemies',<sup>412</sup>

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Respected Brother 89 (Son Sen), 20 February 1976, ERN 00525783; **D4.1.699**, Eleventh telegram to Brother Muth about Enemy situation in along border, 24 September 1976, ERN 00143240; **D1.3.34.39**, Telegram 4, Band 429, For Respected and Beloved Brother Muth, 5 November 1977, ERN 00233656.

<sup>402</sup> **D1.3.27.18**, Minutes of the Meeting of Secretaries and Logistics of Divisions and Independent Regiments, 19 September 1976, ERN 00195341.

<sup>403</sup> **D1.3.27.18**, Minutes of the Meeting of Secretaries and Logistics of Divisions and Independent Regiments, 19 September 1976, ERN 00195341.

<sup>404</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, paras 344-345, *Stung Hav Worksites*, paras 377, 379-380.

<sup>405</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, para. 347, *Stung Hav Worksites*, para. 382.

<sup>406</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, para. 344.

<sup>407</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, para. 346, *Stung Hav Worksites*, paras 375-376.

<sup>408</sup> **D64.1.31**, Foreign Broadcast Information Service collection of reports, January 1977, ERN 00168467; **D4.1.886**, The Revolutionary Flag, Special Issue, September-October 1976, ERN 00450507; **D4.1.864**, The Revolutionary Flag, Special Issue, 1 September 1977, ERN 00486236, ERN 00486238-00486239; **D4.1.861**, The Revolutionary Flag, Issue 8, 1 August 1975, ERN 00401491; **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491412.

<sup>409</sup> **D4.1.873**, The Revolutionary Youth, Issue 8, 1 August 1975, ERN 00532691; **D234/2.1.29**, Brief Study of the History of the Kampuchean Revolutionary Movement under the Leadership of the Communist Party of Kampuchea, 6 January 1976, ERN 00716599.

<sup>410</sup> **D1.3.22.2**, Constitution of Democratic Kampuchea, 6 January 1976, ERN 00184836, Article 10.

<sup>411</sup> Evidence shows that the terms "bad elements" and "no-good elements" were used interchangeably.

**D98/1.2.1**, Transcript of Hearing on the Substance of Case 001 [Kaing Guek Eav alias Duch], 18 May 2009, ERN 00328527; **D1.3.27.10**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions, Secretaries and Deputy Secretaries of Regiments, 2 August 1976, ERN 00656569, ERN 00656578-00656579.

<sup>412</sup> **D69.1.42**, Khieu Samphan, "*Consideration on the History of Cambodia from Early Stage to the Period of Democratic Kampuchea*", Reahu, October 2007, ERN 00498231; **D114/198**, Written Record of Interview of



and efforts focussed on finding them within the military and among civilians within the cooperatives.<sup>413</sup> ‘Bad elements’ and ‘enemies’ were either ‘re-educated’,<sup>414</sup> arrested,<sup>415</sup> or ‘smashed’.<sup>416</sup> The latter term implied the eradication of an individual’s personhood, not merely killing them. Kaing Guek Eav alias Duch, the former chief of S-21, explained, “*to smash means to arrest secretly and then people who were arrested [would] be interrogated, with tortures employed, and then executed secretly without the*

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Witness Pin Samoun, 7 April 2016, ERN 01246896-01246897, A54-A64; **D4.1.863**, The Revolutionary Flag, Issue 7, 1 July 1977, ERN 00476164, ERN 00476166-00476168; **D4.1.882**, The Revolutionary Flag, Issues 2 and 3, February-March 1976, ERN 00517817; **D1.3.27.8**, Minutes of the Meeting of Secretaries and Economics of Divisions, 16 May 1976, ERN 00923159; **D1.3.27.10**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions, Secretaries and Deputy Secretaries of Regiments, 2 August 1976, ERN 00656578; **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940350; **D1.3.27.19**, Minutes of the Meeting on Production Work, 30 September 1976, ERN 00184823; **D1.3.27.26**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 1 March 1977, ERN 00933839, ERN 00933844; **D4.1.862**, The Revolutionary Flag, Special Issue, 1 April 1977, ERN 00478496; **D4.1.653**, The Revolutionary Flag, 6 June 1977, ERN 00446857; **D4.1.863**, The Revolutionary Flag, Issue 7, 1 July 1977, ERN 00476163; **D4.1.493**, Report on Enemy’s Actions to 109 District Police, 27 July 1978, ERN 00322217-00322225; **D4.1.869**, The Revolutionary Flag, Issue 7, 1 July 1978, ERN 00428297; **D1.3.24.5**, The Revolutionary Flag, Special Issue, May-June 1978, ERN 00185335.

<sup>413</sup> **D234/2.1.41**, Transcript of the Hearing on the Substance in Case 002 [Nuon Chea], 13 December 2011, ERN 00761800, lines 16-21; **D234/2.1.77**, Transcript of Hearing on the Substance in Case 002/02 [Sen Srun], 14 September 2015, ERN 01406847, lines 13-14; **D98/3.1.130**, Transcript of Hearing on the Substance in Case 002 [Em Oeun], 23 August 2012, ERN 00841937, lines 8-17; **D1.3.27.10**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions, Secretaries and Deputy Secretaries of Regiments, 2 August 1976, ERN 00656578; **D1.3.27.19**, Minutes of the Meeting on Production Work, 30 September 1976, ERN 00184821; **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940352.

<sup>414</sup> In theory, re-education was a form of disciplinary action for minor offenders. **D4.1.785**, Written Record of Interview of Witness Pech Chim, 27 August 2009, ERN 00380133-00380134; **D4.1.801**, Written Record of Interview of Witness Chhaom Se, 31 October 2009, ERN 00406214, A9; **D4.1.524**, Written Record of Interview of Witness Tuoloas Sma El, 10 July 2009, ERN 00353496; **D98/1.2.18**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 26 March 2012, ERN 00795071-00795072. *See also* **D4.1.1013**, Role of special military, sector military, guerilla, 5 August 1978, ERN 00574563; **D1.3.27.23**, Minutes of the Meeting of Secretaries and Logistics of Divisions and Independent Regiments, 15 December 1976, ERN 00233714.

<sup>415</sup> **D1.3.17.9**, Ysa Osmam, “*Oukoubah – Justice for the Cham Muslims under the Democratic Kampuchea Regime*”, 20 November 2008 (filing date), ERN 00078543; **D1.3.34.10**, Telegram No 44, sent to respected Brother 89 for his knowledge, about the situation in August 1976, 23 August 1976, ERN 00233647; **D4.1.699**, Telegram by Comrade Dim entitled “Telegram 11, To Brother Muth”, 24 September 1976, ERN 00143240; **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940341, ERN 00940349; **D1.3.27.26**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 1 March 1977, ERN 00933834; **D1.3.34.25**, Telegram 52 – Radio Band 874 – Dear Missed and Beloved Committee 870, 23 August 1977, ERN 00183627.

<sup>416</sup> **D11/199/4**, Transcript of Hearing on the Substance in Case 002 [Em Oeun], 27 August 2012, ERN 00842928, line 25, ERN 00842929, lines 1-2; **D98/1.2.1**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 18 May 2009, ERN 00328458, lines 9-13, 15-17, ERN 00328459, lines 4-5; **D4.1.862**, The Revolutionary Flag, Special Issue, 1 April 1977, ERN 00478496. Other language for “smash”: *See, e.g.:* “Eradicate”: **D4.1.862**, The Revolutionary Flag, 1 April 1977, ERN 00478500; **D4.1.866**, The Revolutionary Flag, February 1978, ERN 00464065. “Sweep away”: **D4.1.303**, Telegram 47 from Sarun to Office 870, 1 January 1978, ERN 00324809; **D114/36.1.30** Report from Office 401 to Angkar, 4 August 1978, ERN 00143624. “Wipe out”: **D4.1.374**, FBIS, The Revolutionary Army Adopts Resolutions on SRV Dispute, 4 January 1978, ERN 00169539. “Exterminate”: **D4.1.374**, FBIS, The Revolutionary Army Adopts Resolutions on SRV Dispute, 4 January 1978, ERN 00169538. “Liquidate”: **D4.1.893**, The Revolutionary Youth Number 10, 1 October 1978, ERN 00539998.



*knowledge of their family members*".<sup>417</sup> In many cases, people ostensibly asked to attend 're-education' were in fact sent to be killed.<sup>418</sup> What constituted 'enemy activity' was interpreted broadly, including minor infractions such as complaining about living and working conditions, making mistakes, possessing food without permission, and more serious offences such as 'sabotage', including breaking tools or destroying food supplies.<sup>419</sup>

182. On 30 March 1976, the Central Committee delegated the right to "*smash, inside and outside the ranks*" to several committees and the General Staff.<sup>420</sup> On 20 June 1978, the Central Committee issued a directive in which different categories of 'misled persons' were defined and instructions given on how to treat these categories.<sup>421</sup>
183. The CPK disseminated these policies through articles in the *Revolutionary Flag* and the *Revolutionary Youth* magazines,<sup>422</sup> broadcasts,<sup>423</sup> and through regular meetings at all echelons.<sup>424</sup> The *Revolutionary Flag* and the *Revolutionary Youth*, two CPK magazines published under the supervision of the Ministry of Propaganda and Education,<sup>425</sup> were

<sup>417</sup> **D54/6.1.10**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 18 May 2009, ERN 00328458, lines 9-13. *See also* **D1.3.33.6**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 21 January 2008, ERN 00159558-00159559; **D11/199/4**, Transcript of Hearing on the Substance in Case 002 [Em Oeun], 27 August 2012, ERN 00842928 line 25, ERN 00842929, lines 1-2; **D98/1.2.15**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 19 March 2012, ERN 00792616, lines 2-11; **D4.1.523**, Written Record of Interview of Witness Ban Siek, 6 July 2009, ERN 00360754-00360755.

<sup>418</sup> **D98/3.1.97**, Transcript of Hearing on the Substance in Case 001 [Kaing Guek Eav alias Duch], 24 June 2009, ERN 00345026, lines 22-23, ERN 00345030, lines 20-23; **D4.1.465**, Written Record of Interview of Witness Seng Yon, 20 April 2008, ERN 00272282.

<sup>419</sup> **D4.1.869**, The Revolutionary Flag, Issue 7, 1 July 1978, ERN 00428297; **D4.1.868**, The Revolutionary Flag, Issue 4, 1 April 1978, ERN 00519853.

<sup>420</sup> **D1.3.19.1**, Decision of the Central Committee regarding a number of matters, 30 March 1976, ERN 00182809; **D1.3.33.12**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 5 May 2008, ERN 00204299.

<sup>421</sup> **D4.1.583**, CPK Central Committee Policy Directive, 20 June 1978, ERN 00275217-00275218. *See also* **D1.3.24.5**, The Revolutionary Flag, Special Issue, May-June 1978, ERN 00185328-00185329.

<sup>422</sup> **D1.3.33.12**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 5 May 2008, ERN 00204284; **D4.1.845**, Written Record of Interview of Witness Lonh Dos, 20 November 2009, ERN 00407793, A57-60; **D4.1.828**, Written Record of Interview of Witness Suon Kanil, 19 August 2009, ERN 00390077.

<sup>423</sup> **D64.1.40**, Foreign Broadcast Information Service Collection, 31 January 1978, ERN 00169517; **D1.3.33.12**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 5 May 2008, ERN 00204284; **D4.1.986**, Khieu Samphan's Speech at Anniversary Meeting, 19 April 1977, ERN 00419513; **D64.1.34**, Foreign Broadcast Information Service collection of reports, September 1977, ERN 00168723.

<sup>424</sup> **D4.1.817**, Written Record of Interview of Witness Bun Thien, 17 August 2009, ERN 00384407-00384408.

<sup>425</sup> Written by Party Centre: **D98/3.1.128**, Transcript of Hearing on the Substance in Case 002 [Kim Vun], 21 August 2012, ERN 00839700, lines 17-22; **D98/3.1.316**, Transcript of Hearing on the Substance in Case 002 [Yun Kim], 19 June 2012, ERN 00819632, lines 4-7; **D98/1.2.16**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 20 March 2012, ERN 00793016, lines 18-20; **D4.1.409**, Written Record of Interview of Witness Chhouk Rin, 29 July 2008, ERN 00268899; **D234/2.1.99**, Transcript of Hearing on the Substance in Case 002/02 [Alexander Hinton], 14 March 2016, ERN 01217356, lines 4-9. Ministry of Propaganda and Education: **D98/3.1.128**, Transcript of Hearing on the Substance in Case 002 [Kim Vun], 21 August 2012, ERN 00839700, lines 17-22.



distributed to the members of the CPK roughly every month.<sup>426</sup> Articles varied from speeches and presentations given by CPK leaders, to achievements of the DK Regime, Party policies in general, and the Party's instructions to its members.<sup>427</sup> Produced and disseminated by the CPK itself, they constitute valuable contemporaneous evidence of CPK policies that were to be implemented throughout DK.<sup>428</sup> For example, in 1975 an article in the *Revolutionary Flag* explained the creation of the RAK and the necessity to use “*revolutionary violence to oppose the reactionaries and the oppressor classes and to oppose the colonialists and imperialists*”.<sup>429</sup> This violence could be “*political violence or armed violence*”<sup>430</sup> and should be used to “*smash*” the “*espionage groups*”, “*saboteurs*”, and the “*defeated enemy remnants*”<sup>431</sup> in order to “*purge*” the

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August 2012, ERN 00839693, lines 3-4, lines 21-25, ERN 00839694, lines 1-16; **D98/1.2.21**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 29 March 2012, ERN 00796905, lines 5-7.

<sup>426</sup> To CPK members: **D98/3.1.129**, Transcript of Hearing on the Substance in Case 002 [Kim Vun], 22 August 2012, ERN 00841215, lines 12-15; **D98/1.2.38**, Transcript of Hearing on the Substance in Case 002 [David Chandler], 18 July 2012, ERN 00825698, lines 3-10; **D98/3.1.117**, Transcript of Hearing on the Substance in Case 002 [Suon Kanil], 14 December 2012, ERN 00872194, lines 9-11; **D98/3.1.21**, Transcript of Hearing on the Substance in Case 002 [Chhaom Se], 8 April 2013, ERN 00899358, line 25, ERN 00899359, lines 1-6; **D98/1.2.16**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 20 March 2012, ERN 00792974, lines 4-6. Every month: **D98/1.2.25**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 5 April 2012, ERN 00799915, line 25, ERN 00799916, lines 1-2; **D98/1.2.16**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 20 March 2012, ERN 00792974, lines 4-6.

<sup>427</sup> Speeches and presentations: **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976–January 1977, ERN 00491406-00491437; **D4.1.886**, The Revolutionary Flag, Special Issue, September–October 1976, ERN 00450504-00450516; **D4.1.871**, The Revolutionary Flag, Issue 9, 1 September 1978, ERN 00488616–00488639. Achievements of the DK Regime and Party line: **D4.1.870**, The Revolutionary Flag, Issue 8, 1 August 1978, ERN 00499781-00499789; **D4.1.865**, The Revolutionary Flag, Special Issue, October–November 1977, ERN 00182548-00182588; **D4.1.869**, The Revolutionary Flag, Issue 7, 1 July 1978, ERN 00428303-00428307; **D234/2.1.26**, The Revolutionary Youth Number 3, 1 March 1977, ERN 00525946-00525954. Instructions: **D4.1.653**, The Revolutionary Flag, 6 June 1977, ERN 00446875-00446881; **D4.1.862**, The Revolutionary Flag, Special Issue, 1 April 1977, ERN 00478506.

<sup>428</sup> **D1.3.33.5**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 5 September 2007, ERN 00147583; **D1.3.33.12**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 5 May 2008, ERN 00204284; **D98/1.2.1**, Transcript of Hearing on the Substance in Case 001 [Craig Etcheson], 18 May 2009, ERN 00328530, lines 1-25, ERN 00328531, lines 1-3; **D98/1.2.4**, Transcript of Hearing on the Substance in Case 002 [Craig Etcheson], 21 May 2009, ERN 00330373-00330376; **D98/1.2.38**, Transcript of Hearing on the Substance in Case 002 [David Chandler], 18 July 2012, ERN 00825697, lines 13-25, ERN 00825698, lines 3-10.

<sup>429</sup> **D4.1.861**, The Revolutionary Flag, Issue 8, 8 August 1975, ERN 00401491. *See also* **D4.1.882**, The Revolutionary Flag, Issue 2 and 3, February–March 1976, ERN 00517817, ERN 00517824; **D4.1.886**, The Revolutionary Flag, Special Issue, September–October 1976, ERN 00450507; **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491404, ERN 00491412; **D64.1.31**, Foreign Broadcast Information Service collection, 19 January 1977, ERN 00168467; **D4.1.863**, The Revolutionary Flag, Issue 7, 1 July 1977, ERN 00476163.

<sup>430</sup> **D4.1.861**, The Revolutionary Flag, Issue 8, 8 August 1975, ERN 00401477, ERN 00401491, ERN 00401493.

<sup>431</sup> **D4.1.861**, The Revolutionary Flag, Issue 8, 8 August 1975, ERN 00401501. *See also* **D4.1.864**, The Revolutionary Flag, Special Issue, 1 September 1977, ERN 00486236.



organisation.<sup>432</sup> It is, however, unclear whether these magazines were both distributed equally among all CPK members and Youth League Members nationwide,<sup>433</sup> because at least one witness recalls that immediately upon “*joining the Revolution*” he could read only the “*Youth League Journal*”.<sup>434</sup>

184. Revolutionary vigilance, violence, and searching for internal enemies was required of both the RAK and the civilian population.<sup>435</sup> Throughout the DK period, everyone had to provide ‘biographies’.<sup>436</sup> These biographies were ‘grasped’,<sup>437</sup> meaning biographies were reviewed for defects in politics, ideology and ‘organisation’.<sup>438</sup> If flaws were found in biographies, people were marked as ‘no-good elements’ or regarded as an ‘infiltrated enemy’;<sup>439</sup> to be ‘re-educated’ or ‘purged’.<sup>440</sup> The mere suspicion of (latent) disloyalty sufficed to receive the CPK’s attention.<sup>441</sup>

<sup>432</sup> **D4.1.886**, The Revolutionary Flag, Special Issue, September–October 1976, ERN 00450508, ERN 00450541; **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491435; **D4.1.863**, The Revolutionary Flag, Issue 7, 1 July 1977, ERN 00476161-00476162; **D4.1.868**, The Revolutionary Flag, Issue 4, 1 April 1978, ERN 00519842.

<sup>433</sup> **D4.1.845**, Written Record of Interview of Witness Lonh Dos, 20 November 2009, ERN 00407793, A57-A60.

<sup>434</sup> **D4.1.828**, Written Record of Interview of Witness Suon Kanil, 19 August 2009, ERN 00390077.

<sup>435</sup> **D4.1.862**, The Revolutionary Flag, Special Issue, 1 April 1977, ERN 00478495-00478496, ERN 00478500; **D4.1.869**, The Revolutionary Flag, Issue 7, 1 July 1978, ERN 00428291; **D1.3.24.5**, The Revolutionary Flag, Special Issue, May–June 1978, ERN 00185341, ERN 00185343. *See also* **D4.1.653**, The Revolutionary Flag, 6 June 1977, ERN 00446857-00446858; **D4.1.863**, The Revolutionary Flag, Issue 7, 1 July 1977, ERN 00476168, ERN 00476172; **D4.1.893**, The Revolutionary Youth, Number 10, 1 October 1978, ERN 00539982.

<sup>436</sup> **D1.3.27.1**, Meeting of the Standing Committee, 9 October 1975, ERN 00183397; **D1.3.22.1**, Communist Party of Kampuchea Statute, 20 November 2008 (filing date), ERN 00184036.

<sup>437</sup> **D1.3.24.2**, The Revolutionary Flag, Issue 7, July 1976, ERN 00268936; **D1.3.27.1**, Meeting of the Standing Committee, 9 October 1975, ERN 00183397.

<sup>438</sup> **D1.3.27.1**, Meeting of the Standing Committee, 9 October 1975, ERN 00183403; *See also* **D1.3.22.1**, Communist Party of Kampuchea Statute, 20 November 2008 (filing date), ERN 00184036; **D4.1.863**, The Revolutionary Flag, Issue 7, 1 July 1977 ERN 00476174; **D4.1.867**, The Revolutionary Flag, Issue 3, 1 March 1978, ERN 00504088-00504089.

<sup>439</sup> **D1.3.24.2**, The Revolutionary Flag, Issue 7, 1 July 1976, ERN 00268935-00268936.

<sup>440</sup> Re-education: **D1.3.27.1**, Meeting of the Standing Committee, 9 October 1975, ERN 00183403-00183404; **D1.3.27.5**, Summary of the Decisions of the Standing Committee in the Meeting of 19-20-21 April 1976, 21 April 1976, ERN 00183418. Purge: **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491397. *See also* Pol Pot stated there were no prisons in DK and that “*people who are not good*” were sent to produce food. **D4.1.1013**, Role of special military, sector military, guerilla, 5 August 1978, ERN 00574563.

<sup>441</sup> **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940350; **D114/6**, Written Record of Interview of Witness, Yin Teng, 7 October 2011, ERN 01050314, A45; **D98/3.1.130**, Transcript of Hearing on the Substance in Case 002 [Em Oeun], 23 January 2012, ERN 00841937, lines 8-17; **D4.1.817**, Written Record of Interview of Witness Bun Thien, 2009, ERN 00384407-00384408; **D4.1.869**, The Revolutionary Flag, Issue 7, 1 July 1978, ERN 00428291.





### 5.2.2.2 *Purges*

185. In 1976, the RAK initiated a plan to purge its ranks of elements considered not to be loyal to CPK ideology. Son Sen addressed division commanders and their deputies repeatedly to that effect and stressed the importance of obtaining and reviewing biographies; these orders were faithfully implemented and action taken was reported.<sup>442</sup> As a result, Division 164 soldiers were asked frequently to draft biographies which were verified through investigations in their home villages.<sup>443</sup>
186. On 9 October 1976, the RAK held a meeting where the need for internal purges was extensively discussed among, *inter alia*, **Meas Muth**, Sou Met and Dim.<sup>444</sup> The purge was to be conducted according to three categories: firstly, “*the dangerous*” who had to be killed without exception; secondly, the “*ordinary liberals*” who required re-education; and thirdly, those who had been merely “*incited by the enemy*” and merely needed refashioning.<sup>445</sup>
187. Expert witness Craig Etcheson explained that purging was widespread throughout “*the entire DK military*”.<sup>446</sup> Arrests were also made in all government ministries.<sup>447</sup> He

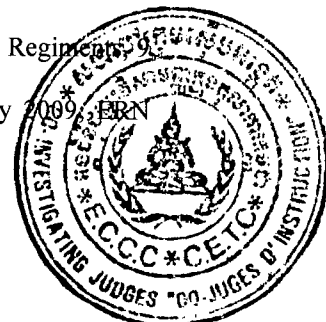
<sup>442</sup> **D1.3.27.10**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Brigades, Secretaries and Deputy Secretaries of Regiments, 2 August 1976, ERN 00656569-00656574, ERN 00656578-00656579; **D1.3.27.12**, Minutes of the Meeting of Division and Independent Regiment Secretaries and Deputy Secretaries, 18 August 1976, ERN 00234458-00234459; **D1.3.27.16**, Minutes of Divisional and Independent Regiment Secretary–Under Secretary’s Meeting, 16 September 1976, ERN 00184339-00184340; **D1.3.27.18**, Minutes of Meeting of Secretaries and Logistics of Divisions and Regiments, 19 September 1976, ERN 00195348-00195350; **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940342-00940346, ERN 00940353-00940355; **D1.3.8.4**, Minutes of the Meeting of comrades 164, 9 September 1976, ERN 00657356; **D1.3.8.7**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Regiments, 18 October 1976, ERN 00877015-00877017; **D1.3.27.21**, Minutes of Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 11 November 1976, ERN 00876992-00876993; **D1.3.27.23**, Minutes of Meeting of Secretaries and Logistics Officers of Divisions and Independent Regiments, 15 December 1976, ERN 00233718; **D1.3.27.25**, Minutes of the Meeting of Division 801 about the Situation of enemy, Situation of unit, Situation of food, Other problem, 16 December 1976, ERN 00874986-00874989; **D1.3.27.26**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 1 March 1977, ERN 00933839-00933841, ERN 00933843-00933845.

<sup>443</sup> **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251774, A72-A74; **D114/132**, Written Record of Interview of Witness of Mao Ran, 8 October 2015, ERN 01172492-01172493, A84-A90; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056670-01056671, A102-A103; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412624-01412625; **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118161, A32.

<sup>444</sup> **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940342-00940346, ERN 00940350-00940351, ERN 00940353-00940355.

<sup>445</sup> **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940354-00940355.

<sup>446</sup> **D98/1.2.2**, Transcript of Hearing on the Substance in Case 001 [Craig Etcheson], 19 May 2009, ERN 00328895, lines 5-7.



explained that some people were executed in their own units, some were forced to perform labour and many were sent to S-21.<sup>448</sup>

188. **Meas Muth** made a major contribution to achieving the common goal of the purge operation subscribed to by all its participants, including Son Sen, Sou Met, Ta Mok and others, such as, for example, Nat from General Staff.<sup>449</sup> He was directly involved in carrying out purges in Divisions 164<sup>450</sup> and 117.<sup>451</sup> He participated in the purge of Division 170 in the East Zone<sup>452</sup> – although this has not been charged as such and thus only relevant for showing his overall level of involvement – by sending troops from Division 164 to assist.<sup>453</sup> Sou Met was involved in the purge of his own Division 502<sup>454</sup> as well as others, including Divisions 170,<sup>455</sup> 310,<sup>456</sup> and 450.<sup>457</sup> He provided support to **Meas Muth** in the purge of Division 117 by providing airplanes,<sup>458</sup> and received Division 164 soldiers for tempering at Kampong Chhnang Airport.<sup>459</sup> Ta Mok purged

<sup>447</sup> **D98/1.2.2**, Transcript of Hearing on the Substance in Case 001 [Craig Etcheson], 19 May 2009, ERN 00328897, lines 14-15, ERN 00328898, lines 1-12.

<sup>448</sup> **D98/1.2.2**, Transcript of Hearing on the Substance in Case 001 [Craig Etcheson], 19 May 2009, ERN 00328895, lines 21-24.

<sup>449</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246901-01246902, A131-A136, ERN 01246908, A214.

<sup>450</sup> See *S-21 Security Centre*, para. 168, *Crimes against members of Divisions 164, 502, 310, and 117*, paras 273-275, 279, 282.

<sup>451</sup> See *Crimes against members of Divisions 164, 502, 310, and 117*, paras 324-327.

<sup>452</sup> **D114/87**, Written Record of Interview of Witness Chhouk Rin, 16 June 2015, ERN 01118168, A11; **D114/199**, Written Record of Interview of Witness Sreng Thy, 7 April 2016, ERN 01300065, A59. See also **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055473, A74-A78.

<sup>453</sup> **D114/87**, Written Record of Interview of Witness Chhouk Rin, 16 June 2015, ERN 01118168, A11; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116310-01116311, A245-A254, A258-A259; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055473, A75.

<sup>454</sup> **D114/159**, Written Record of Interview of Witness Guek Eav Kaing alias Duch, 2 February 2016, ERN 01213424, A27.

<sup>455</sup> **D114/165**, Written Record of Interview of Witness Prak Khan, 2 February 2016, ERN 01219847, A33; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246902, A142-A143, ERN 01246905, A191-A193, ERN 01246909, A229, A237-A238, ERN 01246910, A248, ERN 01246912, A275-A276.

<sup>456</sup> **D114/159**, Written Record of Interview of Witness Guek Eav Kaing alias Duch, 2 February 2016, ERN 01213424-01213425, A28; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246900, A116-A118, ERN 01246901, A130, ERN 01246902, A142-A143, ERN 01246909, A229, ERN 01246910, A248, ERN 01246912, A275-A276. See *Crimes against members of Divisions 164, 502, 310, and 117*, paras 292-293, 308, 311.

<sup>457</sup> **D114/159**, Written Record of Interview of Witness Guek Eav Kaing alias Duch, 2 February 2016, ERN 01213424-01213425, A28; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246899-01246900, A107-A108, ERN 01246910, A240, A244-A248.

<sup>458</sup> **D114/160**, Written Record of Interview of Witness Guek Eav Kaing alias Duch, 2 February 2016, ERN 01213432, A13-A15; **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01237991, A49-A51. See also **D114/149**, Written Record of Interview of Witness Touch Chhum, 17 December 2015, ERN 01207251, A4-A8, ERN 01207252, A13-A14, A18, ERN 01207258, A60.

<sup>459</sup> **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055488, A167-A169.



his own units<sup>460</sup> and participated in the purge of the East Zone. Initially, in a meeting in Phnom Penh, he, Pol Pot and Son Sen explained to military commanders the need for the East Zone purge.<sup>461</sup> He held a one-day pre-purge meeting for all commanders at his home and then sent units to implement the purge.<sup>462</sup> **Meas Muth** attended the former meeting,<sup>463</sup> however, there is no evidence of him attending the latter.

189. There were no courts during the DK Regime.<sup>464</sup> Soldiers and civilians were removed from their units and/or cooperatives, detained and executed without a hearing or any right to appeal.<sup>465</sup>

<sup>460</sup> **D4.1.407**, Written Record of Interview of Witness Khun Kim alias Nuon Paet, 30 April 2008, ERN 00268855, ERN 00268857-00268859, ERN 00268861; **D4.1.409**, Written Record of Interview of Witness Chhouk Rin, 29 July 2008, ERN 00268895, ERN 00268898; **D98/3.1.28**, Transcript of Hearing on the Substance in Case 002 [Chhouk Rin], 23 April 2013, ERN 00902622-00902624. *See also* **D54/61**, Written Record of Interview of Witness Moeng Vet, 12 February 2014, ERN 00982718, A36-A38.

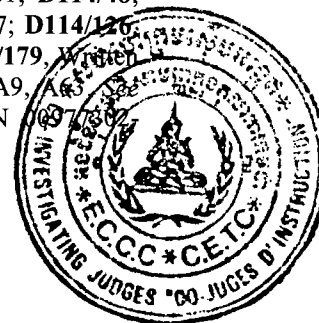
<sup>461</sup> **D4.1.408**, Written Record of Interview of Witness Chhouk Rin, 21 May 2008, ERN 00268871-00268872; **D98/3.1.27**, Transcript of Hearing on the Substance in Case 002 [Chhouk Rin], 22 April 2013, ERN 00902643-00902645.

<sup>462</sup> **D98/3.1.27**, Transcript of Hearing on the Substance in Case 002 [Chhouk Rin], 22 April 2013, ERN 00902643-00902645, ERN 00902652, lines 12-24.

<sup>463</sup> **D4.1.408**, Written Record of Interview of Witness Chhouk Rin, 21 May 2008, ERN 00268871-00268872.

<sup>464</sup> **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053541, A17; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056681, A180-A181; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111730, A3; **D114/179**, Written Record of Interview of Witness Snguon Chhum, 25 February 2016, ERN 01226867, A64. *See also* **D54/122**, Written Record of Interview of Witness Lak Saphan, ERN 01066712, A11-A12.

<sup>465</sup> **D54/104**, Written Record of Interview of Witness Ek Ny, 3 June 2014, ERN 01008086, A12-A13; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053541, A17-A20; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395471, A40. *See also* **D54/20**, Written Record of Interview of Witness of Sam Saom, 19 August 2013, ERN 00977294, A12; **D54/100**, Written Record of Interview of Witness of Lay Boonhak, 29 May 2014, ERN 01076828, A117-A118; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053541, A17-A20; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056681, A180-A181; **D114/48**, Written Record of Interview of Witness Sok Ngon, 18 February 2015, ERN 01076709, A26-A27; **D114/126**, Written Record of Interview of Witness Ou Kim, 19 September 2015, ERN 01166088, A27; **D114/179**, Written Record of Interview of Witness Snguon Chhum, 25 February 2016, ERN 01226854, 01226867, A9, A63. *See also* **D54/36**, Written Record of Interview of Witness Prak Sokha, 13 November 2013, ERN 00977303, A28-A30.



5.2.3 The targeting of specific groups, in particular persons of Vietnamese and Thai ethnicity or nationality (real or perceived) including those current or former military personnel

190. The CPK identified and targeted particular categories of people perceived as potential threats or being disloyal to the DK Regime,<sup>466</sup> i.e. CPK cadres accused of “*traitorous activities*”, “*17 April people*”, soldiers from the East Zone, and Vietnamese and Thai nationals. The targeting of groups began as early as late 1975.<sup>467</sup>

5.2.3.1 ‘17 April people’/‘new people’

191. After the fall of Phnom Penh on 17 April 1975, the Khmer Rouge differentiated between different classes of citizens.<sup>468</sup> There were the so-called “*base*” or “*old people*” who lived as farmers in the countryside<sup>469</sup> and were considered the “*true proletariat*”, and the “*new people*” or “*17 April people*” who were the former urban city dwellers.<sup>470</sup> The latter were not trusted<sup>471</sup> and “*were always suspected of the worst*”.<sup>472</sup> The CPK began a policy of “*refashioning*” the so-called “*new people*” or

<sup>466</sup> **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940345; **D4.1.869**, The Revolutionary Flag, Issue 7, 1 July 1978, ERN 00428294-00428295; **D4.1.862**, The Revolutionary Flag, 1 April 1977, ERN 00478499, ERN 00478501; **D4.1.865**, The Revolutionary Flag, October-November 1977, ERN 00182548-00182550.

<sup>467</sup> See *Crimes against members of Divisions 164, 502, 310, and 117*, para. 304, regarding the earliest arrests from Battalion 310. See also **D32/9**, Written Record of Interview of Witness Khieu Saran, 24 April 2012, ERN 00919391, A8; **D32/10**, Written Record of Interview of Witness Khieu Saran, 25 April 2012, ERN 00919320, A23-A25; **D54/61**, Written Record of Interview of Witness Moeng Vet, 12 February 2014, ERN 00982718, A36; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001475, A39; **D114/25**, Written Record of Interview of Civil Party Applicant Ou Dav, 3 November 2014, ERN 01055699, A66; **D114/132**, Written Record of Interview of Witness Mao Ran, 6 October 2015, ERN 01172481-01172482, A14, A17, ERN 01172486, A46, A48-A49, ERN 01172487-01172490, A53-A70. See also **D114/179**, Written Record of Interview of Witness Snguon Chhum, 25 February 2016, ERN 01226861-01226862, A40-A44.

<sup>468</sup> **D4.1.861**, Revolutionary Flag, Issue 8, 1 August 1975, ERN 00401486; **D1.3.24.2**, The Revolutionary Flag, Issue 7, 1 July 1976, ERN 00268917-00268918; **D4.1.886**, The Revolutionary Flag, special Issue, September-October 1976, ERN 00450524; **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976- January 1977, ERN 00491424-00491425.

<sup>469</sup> **D114/183**, Written Record of Interview of Witness Beit Boern alias Bith Bunna, 3 March 2016, ERN 01300049, A205; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111728, A1; **D234/2.1.21**, Elizabeth Do, Analytical Report “*Treatment of the Vietnamese Minority in Democratic Kampuchea From a Comparative Perspective*”, Stanford University, 3 June 2010, ERN 00548818.

<sup>470</sup> The terms “*New people*” or “*17 April people*” have been used interchangeably throughout the Closing Order. **D54/74.1.20**, Philip Short, *Pol Pot, The History of a Nightmare*, London 2004, (filing date) 31 March 2014, ERN 00396500; **D234/2.1.21**, Elizabeth Do, Analytical Report “*Treatment of the Vietnamese Minority in Democratic Kampuchea From a Comparative Perspective*”, Stanford University, 3 June 2010, ERN 00548818.

<sup>471</sup> **D234/2.1.21**, Elizabeth Do, Analytical Report “*Treatment of the Vietnamese Minority in Democratic Kampuchea From a Comparative Perspective*”, Stanford University, 3 June 2010, ERN 00548819. See also **D114/85**, Written Record of Interview of Witness Chet Bunna, 15 June 2015, ERN 01119970, A5.

<sup>472</sup> **D54/74.1.20**, Philip Short, *Pol Pot, The History of a Nightmare*, London 2004, (filing date) 31 March 2014, ERN 00396500.



“17 April people” into farmers in order to diminish their power to oppose the Party.<sup>473</sup>  
Forced from cities into rural cooperatives, many were ultimately killed.<sup>474</sup>

192. **Meas Muth** implemented this discriminatory plan within the area of Kampong Som, where “new people” or “17 April people” were maltreated, sent to work in mobile units, and often killed.<sup>475</sup>

### 5.2.3.2 Vietnamese

193. During a meeting in October 1976, Son Sen told commanders and their deputies that the Vietnamese were initially “*friends with whom we had contradictions*” but became “*genuinely our enemy*”<sup>476</sup> who had “*created a traitorous party obviously to attack our party*”.<sup>477</sup> Various terminologies for the Vietnamese were used throughout DK, including “*Yvon*”,<sup>478</sup> “*Yvon running-dogs*”,<sup>479</sup> and in Kampong Som Region they were called “*piglets*”.<sup>480</sup>

<sup>473</sup> **D4.1.861**, Revolutionary Flag, Issue 8, 1 August 1975, ERN 00401486; **D1.3.24.2**, The Revolutionary Flag, Issue 7, 1 July 1976, ERN 00268917-00268918; **D4.1.886**, The Revolutionary Flag, special Issue, September-October 1976, ERN 00450524; **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491424-00491425. See also **D114/183**, Written Record of Interview of Witness Beit Boeurn alias Bith Bunna, 3 March 2016, ERN 01300049, A205; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111728, A1; **D114/153**, Written Record of Interview of Witness Khoem Vai, 21 December 2015, ERN 01207675, A61.

<sup>474</sup> **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491396; **D4.1.865**, The Revolutionary Flag, Special Issue, October-November 1977, ERN 00182548, ERN 00182559; **D4.1.872**, The Revolutionary Flag, Special Issue, October-November 1975, ERN 00495814. See also **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977838, A26-A27; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A2, A6, ERN 00977300, A11; **D54/114**, Written Record of Interview of Witness Hem Sambath, 31 July 2014, ERN 01044949, A45-A46, ERN 01044950, A48-A51; **D114/1**, Written Record of Interview of Civil Party Applicant Ung Chanthea, 8 September 2014, ERN 01044913, A18-A19.

<sup>475</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, paras 339, 342-350, *Stung Hav Worksites* paras 364, 371-383, *Toek Sap Security Centre*, paras 415, 419, 424. See also **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01189495, A11; **D114/155**, Written Record of Interview of Witness Sok Ren, 13 January 2016, ERN 01207310, A108.

<sup>476</sup> **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940345.

<sup>477</sup> **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments, 9 October 1976, ERN 00940345.

<sup>478</sup> **D4.1.862**, The Revolutionary Flag, Special Issue, 1 April 1977, ERN 00478502; **D4.1.869**, The Revolutionary Flag, 1 July 1978, ERN 00428289-00428291; **D4.1.896**, The Revolutionary Youth Number 4, 1 April 1977, ERN 00491127; **D1.3.34.18**, DK Military Telegram by Chhan entitled “Telegram 54 – Radio Bandit 274 – Dear Beloved Office 870”, 20 May 1977, ERN 00185226; **D234/2.1.95**, Transcript of Hearing on the Substance in Case 002/02 [Meas Vooun], 2 February 2016, ERN 01394449, lines 2-9, ERN 01394453, lines 22-25, ERN 01394454, lines 1-2. Other derogatory language used by CPK cadres to refer to Vietnamese: “Aggressor”: **D69.1.21**, National Public Statement by Khieu Samphan, 17 April 1978, ERN 00280397. “Noxious”: **D1.3.24.5**, The Revolutionary Flag, May-June 1978, ERN 00185333. “Greedy”: **D234/2.1.95**, International Media Report “Phnom Penh Rally Marks 17th April Anniversary”, 18 April 1978, ERN 00040558. “Rats”: **D4.1.862**, The Revolutionary Flag, Special Issue, 1 April 1977, ERN 00478496. “Germs”: **D4.1.868**, The Revolutionary Flag, Issue 4, 1 April 1978, ERN 00519842.



194. The need to “*smash*”<sup>481</sup> the Vietnamese was disseminated via policies,<sup>482</sup> rallies,<sup>483</sup> telegrams/reports,<sup>484</sup> meetings, and study sessions.<sup>485</sup> One witness states that Vietnamese living in Cambodia were sent back to Vietnam by the Cambodian Government until 1976, thereafter soldiers were ordered to “*smash*” the remaining Vietnamese.<sup>486</sup> Another witness recalls that all Division 164 soldiers and battalions were told during training sessions that “*Yuon*” were the “*hereditary enemy*” and that they were instructed to kill them, including babies.<sup>487</sup> Expert witness David Chandler expressed the view that the underlying objective was “*to kill the Vietnamese, not because they were at war with Cambodia, but because they were Vietnamese*”.<sup>488</sup>

### *Vietnamese civilians*

195. Vietnamese people were targeted throughout the DK period. In speeches and meetings, **Meas Muth** focused on the Vietnamese as the “*primary enemy*”.<sup>489</sup> The Vietnamese were “*the absolute enemy*” and therefore “*not [...] a single infant in a cradle*” should be spared.<sup>490</sup> As set out below, between 1975 and 1979, the DK Navy and military personnel of Division 164, on **Meas Muth**’s orders, killed Vietnamese captured from

<sup>479</sup> **D4.1.862**, The Revolutionary Flag, Special Issue, 1 April 1977, ERN 00478495-00478496, ERN 00478502; **D4.1.869**, The Revolutionary Flag, Issue 7, July 1978, ERN 00428291, ERN 00428295, ERN 00428303, ERN 00428307; **D4.1.896**, The Revolutionary Flag, Issue 7, July 1978, ERN 00491106, ERN 00491127.

<sup>480</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474, A29.

<sup>481</sup> See para. 181.

<sup>482</sup> **D4.1.869**, Revolutionary Flag, Issue 7, 1 July 1978, ERN 00428289-00428291, ERN 00428293-00428295, ERN 00428303-00428304, ERN 00428307; **D1.3.24.5**, Revolutionary Flag, May-June 1978, ERN 00185327, ERN 00185333; **D4.1.862**, Revolutionary Flag, Special Issue, 1 April 1977, ERN 00478496, ERN 00478501.

<sup>483</sup> **D234/2.1.33**, International Media Report “Phnom Penh Rally Marks 17th April Anniversary”, 16 April 1978, ERN 00010558, ERN 00010563.

<sup>484</sup> **D1.3.19.4**, CPK Directive from Office 870, 1 January 1979, ERN 00183666. See also **D114/36.1.30** Report from Office 401 to Angkar, 4 August 1978, ERN 00143618, ERN 00143624.

<sup>485</sup> **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412612-01412613.

<sup>486</sup> **D234/2.1.95**, Transcript of Hearing on the Substance in Case 002/02 [Meas Vooun], 2 February 2016, ERN 01394449, lines 17-24.

<sup>487</sup> **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412612-01412613.

<sup>488</sup> **D98/1.2.40**, Transcript of Hearing on the Substance in Case 002/02 [David Chandler], ERN 00827441, lines 16-24, ERN 00827442, lines 11-17.

<sup>489</sup> **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170538, A111-A112; **D114/95**, Written Record of Interview of Witness Sroeung Yoem, 27 July 2015, ERN 01137211, A202-A208; **D114/132**, Written Record of Interview of Witness Mao Ran, 8 October 2015, ERN 01172489-01172490, A63-A70; **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375312, A156-A162.

<sup>490</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056666, 01056667, A71-A72, A74-A78, ERN 01056668, A81-A84; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002 [Pak Sok], 16 December 2015, ERN 01412590, lines 8-11, ERN 01412600, lines 11-24; **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002 [Pak Sok], 5 January 2016, ERN 01412835, lines 19-24, ERN 01412836, lines 3-7.



boats at various locations in Kampong Som, on the islands, and in the territorial waters of DK.<sup>491</sup>

### *Khmer Krom*

196. Although not specifically charged as such, it is nonetheless useful to address briefly the treatment of the Khmer Krom as background evidence for the crimes charged, i.e. the discriminatory intent in genocide. The Khmer Krom were identified as “*Lower Khmers*”, an ethnic Cambodian group from Southern Vietnam who spoke Khmer with a Vietnamese accent<sup>492</sup> and who were referred to as “*the group of the bullheaded Khmer*”<sup>493</sup> or “*Khmer bodies with Vietnamese heads*”<sup>494</sup> and were not trusted by the CPK.<sup>495</sup> In 1976, some Vietnamese were transported to Vietnam in exchange for Cambodian families or prisoners of war.<sup>496</sup> As set out below,<sup>497</sup> from 1977, the Khmer Krom were asked to register as part of a ruse that they would be sent back to Vietnam, when in fact they were to be killed.<sup>498</sup>

<sup>491</sup> See *Crimes committed by the DK Navy*, paras 217-257.

<sup>492</sup> **D114/29.1.4**, Ben Kiernan, “The Pol Pot Regime: Race, Power and Genocide in Cambodia under the Khmer Rouge”, 12 May 1978, ERN 00678494-00678495, ERN 00678651; **D11/44/3**, Written Record of Interview of Civil Party Applicant Thann Thim, 2 July 2014, ERN 01035012, A55.

<sup>493</sup> **D11/156/4**, Written Record of Interview of Civil Party Applicant Kim So, 9 October 2013, ERN 00975887, A20-A21.

<sup>494</sup> **D11/141**, Written Record of Interview of Civil Party Applicant Heng Hak, 7 October 2008, ERN 01137919; **D234/2.1.113**, Transcript of Hearing on the Substance in Case 002/2 [Prak Khan], 28 April 2016, ERN 01299864, lines 2-6; **D11/86/3**, Written Record of Interview of Civil Party Applicant Kong Samnang, 12 June 2014, ERN 01031951, A84; **D11/61/3**, Written Record of Interview of Civil Party Applicant Ry Pov, 30 October 2013, ERN 00970032, A54; **D11/137/4**, Written Record of Interview of Civil Party Applicant Heng My, 25 May 2015, ERN 01117689, A81-A83; **D11/104/3**, Written Record of Interview of Civil Party Applicant Tiev Vieng, 21 May 2015, ERN 01117982, A23.

<sup>495</sup> **D11/156/4**, Written Record of Interview of Civil Party Applicant Kim So, 9 October 2013, ERN 00975887, A20-A21.

<sup>496</sup> **D11/61/3.1**, Transcript of Hearing on the Substance in Case 002 [Ry Pov], 12 February 2015, ERN 01452085-01452088, ERN 01452109-01452110, ERN 01452136, lines 13-15, 23-25 ERN 01452137, lines 1-9; **D11/44/3.1**, Transcript of Hearing on the Substance in Case 002 [Beng Boeun], 2 April 2015, ERN 01478979-01478980; **D4.1.795**, Written Record of Interview of Witness Sau Khon, 25 October 2009, ERN 00398865, A19. See also **D114/179**, Written Record of Interview of Witness Snguon Chhum, 25 February 2016, ERN 01226864-01226865, A55; **D59/2/2.16a**, DC-Cam Interview of Sim Ny, 22 May 2011, ERN 01332586, ERN 01332590-01332591; **D11/423**, Written Record of Interview of Civil Party Applicant Sok Sin, 20 October 2013, ERN 01168431.

<sup>497</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, para. 350.

<sup>498</sup> **D11/160/4**, Written Record of Interview of Civil Party Applicant Chao Ny, 28 October 2013, ERN 00970005-00970007, A29-A32; **D114/179**, Written Record of Interview of Witness Snguon Chhum, 25 February 2016, ERN 01226861-01226862, A40-A45; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111728-01111729, A1, ERN 01111731, A9, A12-A16, ERN 01111732, A19-A21, ERN 01111734, A35; **D54/119**, Written Record of Interview of Witness Prom Kem, 16 August 2014, ERN 01066690-01066692, A7-A12, A14-A16, ERN 01066693, A18; **D234/2.1.95**, Transcript of Hearing on the Substance in Case 002/02 [Meas Vooun], 2 February 2016, ERN 01394449, lines 20-24. Cf. **D234/2.1.96**, Transcript of Hearing on the Substance in Case 002/02 [Meas Vooun], 3 February 2016, ERN 01407658, lines 9-15.



### 5.2.3.3 *Thai*

197. Thailand was also considered a threat and enemy but not to the same degree as the Vietnamese.<sup>499</sup> For centuries, their ambitions had been considered a threat to Cambodian territorial integrity.<sup>500</sup> The CPK believed that Thailand was tied to the Americans and the CIA.<sup>501</sup>

198. Thai fishermen were regularly captured and killed by DK Navy forces,<sup>502</sup> but occasionally exchanged to Thailand for goods such as oil, rice and other materials, or sent to Ream and Koh Ta Kiev to work.<sup>503</sup>

### 5.2.3.4 *Military groups*

199. As set out below, soldiers from Divisions 164, 502, 310, and 117 were targeted in purges because of alleged links or ties to Vietnam or for being otherwise disloyal to the CPK.<sup>504</sup>

### 5.2.4 *Forced marriage of civilians and members of the RAK*

200. From late 1975 onwards, the CPK planned to increase the Cambodian population from eight to 15-20 million over 10 to 15 years.<sup>505</sup> Its civilian and military apparatus<sup>506</sup>

<sup>499</sup> **D54/74.1.20**, Philip Short, *Pol Pot, The History of a Nightmare*, 2004, ERN 00396200, ERN 00396233, ERN 00396501, ERN 00396567; **D234/2.1.103**, Alexander L. Hinton, *Why Did They Kill? Cambodia in the Shadow of Genocide*, ERN 00431657.

<sup>500</sup> **D54/74.1.20**, Philip Short, *Pol Pot, The History of a Nightmare*, 2004, ERN 00396501; **D1.3.17.5**, Nayan Chanda, *Brother Enemy, The War After The War*, 1986, ERN 00192293-00192294.

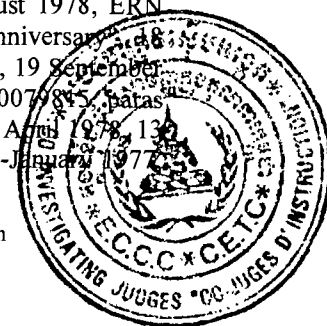
<sup>501</sup> See **D1.3.8.3**, Minutes of the Meeting of the Military Work in Kampong Som, 3 August 1976, ERN 00234013; **D1.3.8.4**, Minutes of the Meeting of Comrades 164, 9 September 1976, ERN 00657355-00657356; **D1.3.8.7**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Regiments, 18 October 1976, ERN 00877015; **D1.3.27.18**, Minutes of the Meeting of Secretaries and Logistics [Chiefs] of Divisions and Regiments, 19 September 1976, ERN 00195349; **D1.3.27.26**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 1 March 1977, ERN 00933842. See also **D1.3.17.5**, Nayan Chanda, *Brother Enemy, "The War After The War"*, 1986, ERN 00192293-00192294; **D54/74.1.20**, Philip Short, *Pol Pot, "The History of a Nightmare"*, 2004, ERN 00396200, ERN 00396567. See also **D114/29.1.4**, Ben Kiernan, *"The Pol Pot Regime"*, 1996, ERN 00678630, ERN 00678652, ERN 00678710. **D1.3.17.1**, Elizabeth Becker, *"When The War Was Over"*, 1986, ERN 00237955-00237956; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056666-0105667, A71-A72.

<sup>502</sup> **D114/132**, Written Record of Interview of Witness Mao Ran, 6 October 2015, ERN 01172493, A91-A95, ERN 01172494, A99-A105, ERN 01172495, A111.

<sup>503</sup> **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977715, A13, A16; **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184849, A57.

<sup>504</sup> See *Crimes against members of Divisions 164, 502, 310, and 117*, paras 270-329.

<sup>505</sup> **D4.1.1013**, Pol Pot Statement to the Belgium-Cambodian Association Delegation, 5 August 1978, ERN 00574566; **D234/2.1.33**, International Media Report "Phnom Penh Rally Marks 17<sup>th</sup> April Anniversary," 18 April 1978, ERN 00010565; **D234/2.1.40**, Written Record of Adversarial Hearing of Nuon Chea, 19 September 2007, ERN 00148699; **D4.1.189**, United Nations General Assembly, 11 October 1977, ERN 0007845, paras 60, 63; **D234/2.1.22**, A Note of Ministry of Foreign Affairs to the UN Secretary-General on 22 April 1977, ERN 00235727; **D4.1.888**, *The Revolutionary Flag*, Special Issue, December 1976-January 1977.



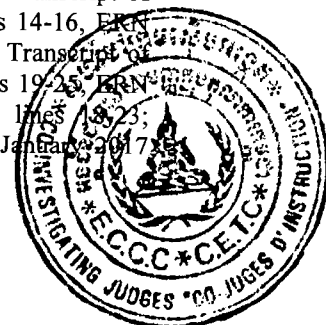


implemented a policy pursuant to which people had to marry according to political, ethnic and class background to achieve population growth and to avoid marriages between “*bad elements*” and those with “*good*” backgrounds (the “Marriage Policy”).<sup>507</sup> DK *Revolutionary Youth* magazines indicate that the Marriage Policy was

ERN 00491435; **D4.1.871**, The Revolutionary Flag, Issue 9, 1 September 1978, ERN 00488637; **D4.1.864**, The Revolutionary Flag, Special Issue, 1 September 1977, ERN 00486263; **D64.1.46**, Foreign Broadcast Information Service collection of reports for September 1978, ERN 00170428; **D114/36.1.8**, Foreign Broadcast Information Service collection of reports, October 1977, ERN 00168651, ERN 00168718; **D64.1.45**, Foreign Broadcast Information Service collection of October 1978, 17 June 2013 (filing date), ERN 00170168; **D69.1.42**, Khieu Samphan, “*Consideration on the history of Cambodia from Early stage to the Period of Democratic Kampuchea*”, Reahu, October 2007, ERN 00498284.

<sup>506</sup> Regularly referred to by witnesses as “*Angkar*”.

<sup>507</sup> Regarding people arranged to marry: **D11/35/3**, Written Record of Interview of Civil Party Applicant Mom Sroeurng, 11 November 2014, ERN 01053867, A1; **D11/231/4**, Written Record of Interview of Civil Party Applicant Sum Chanthol, 24 August 2015, ERN 01178457, A91, A98; **D114/75**, Written Record of Interview of Witness Sin Sisopha, 25 May 2015, ERN 01111747, A63-A64, A69, A71; **D114/297.1.1**, Written Record of Interview of Witness Ruos Suy, 7 July 2015, ERN 01147808-01147809, A75, A77-A78, ERN 01147810, A83-A84, ERN 01147811, A90-A91; **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361796, lines 9-11; **D114/36.1.64**, Written Record of Interview of Witness Seng Ol, 2 December 2009, ERN 00413906, A18, ERN 00413909, A45; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173816-01173817, A67-A68, A70, ERN 01173820, A105-A107; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A2-A3, A7-A8, ERN 01057620-01057621, A21; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074432, A17, ERN 01074451, A155-A158, ERN 01074459, A213; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076781, A180-A181, ERN 01076790, A266, ERN 01076794, A294-A296; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098405, A9-A10, A21, ERN 01098415-01098416, A158-A160; **D114/303**, Written Record of Interview of Witness Thi Chuon, 28 February 2017, ERN 01513880, A22-A30, A33, ERN 01513881, A34, ERN 01513884-01513885, A85-A87, A91, A94-A95; **D114/304**, Written Record of Interview of Witness Vun Bunna, 7 March 2017, ERN 01505880, A67, A69-A71, ERN 01505881, A82, ERN 01505883, A94-A98; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148783-01148784, A203-A206, **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170567-01170568, A251-A257, A262, ERN 01170570, A287-A289, ERN 01170574, A355-A364; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A22, A24, A26; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184817, A21, ERN 01184834-01184835, A137; **D114/34**, Written Record of Interview of Civil Party Applicant Nap Somaly, 22 January 2015, ERN 01069371, A139-A141; **D114/297.1.36**, Transcript of Hearing on the Substance in Case 002/02 [Nget Chat], 25 October 2016, ERN 01371140, lines 1-8, line 17; **D98/3.1.190**, Transcript of Hearing on the Substance in Case 002/02 [Noem Sem], 25 September 2012, ERN 00849615, lines 18-19. *Contra* **D114/297.1.34**, Transcript of Hearing on the Substance in Case 002/02 [Peggy Levine], 11 October 2016, ERN 01361225, lines 9-18, ERN 01361230, lines 24-25, ERN 01361231, lines 1-4, 15-17, ERN 01361233, lines 4-24, ERN 01361259, lines 6-7, 11-17; **D114/297.1.35**, Transcript of Hearing on the Substance in Case 002/02 [Peggy Levine], 12 October 2016, ERN 01361363, lines 19-21, ERN 01361364, lines 7-24, ERN 01361365, lines 15-25, ERN 01361366, lines 1-11 (challenging the existence of a national policy). Regarding population growth: **D234/2.1.137**, Written Record of Interview of Witness Preap Sokhoeurn, 8 October 2014, ERN 01050561, A7-A9, ERN 01050568-01050569, A30-A32; **D114/303**, Written Record of Interview of Witness Thi Chuon, 28 February 2017, ERN 01513880-01513881, A22-A30, A33-A34, ERN 01513884-01513885, A85-A87, A91, A94-A95; **D114/297.1.25**, Transcript of Hearing on the Substance in Case 002/02 [Sou Sotheavy], 23 August 2016, ERN 01369717, lines 4-9, ERN 01369722, lines 4-12, ERN 01369726, lines 18-22; **D114/297.1.36**, Transcript of Hearing on the Substance in Case 002/02 [Nget Chat], 25 October 2016, ERN 01371140, lines 22-25, ERN 01371146, lines 23-25, ERN 01371147, lines 6-9; **D114/297.1.28**, Transcript of Hearing on the Substance in Case 002/02, [Chea Dieb], 30 August 2016, ERN 01369989, lines 14-16, ERN 01369990, lines 8-14, ERN 01370012, lines 24-25, ERN 01370013, lines 1-4; **D114/297.1.36**, Transcript of Hearing on the Substance in Case 002/02 [Say Naroeun], 25 October 2016, ERN 01371170, lines 19-25, ERN 01371171, line 1, ERN 01371175, lines 23-25, ERN 01371176, lines 1-7, ERN 01371183, lines 18-23; **D114/297.1.16**, Sexual violence against ethnic minorities during the Khmer Rouge regime, 5 January 2017.



also intended as a means to advance the socialist revolution.<sup>508</sup> It was also widely disseminated throughout the country, through slogans and banners, and meetings and study sessions of both the civilian and military DK administration.<sup>509</sup> Based on the evidence on Case File 003,<sup>510</sup> the Marriage Policy was implemented across DK, in at least 10 of the then 19 provinces.<sup>511</sup>

(filing date), ERN 00992246; **D4.1.1056**, Written Record of Interview of Witness Chuon Thi, 2 March 2010, ERN 00513313-00513314, A3-A4; **D64.1.45**, Foreign Broadcast Information Service collection of October 1978, 17 June 2013 (filing date), ERN 00170168; **D4.1.871**, The Revolutionary Flag, Issue 9, 1 September 1978, ERN 00488637. Regarding ensuring marriages along political, ethnic and class background: see para. 202.

<sup>508</sup> **D114/36.1.59**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417943; **D4.1.888**, The Revolutionary Flag, Special Issue, December 1976-January 1977, ERN 00491435; See also **D4.1.864**, The Revolutionary Flag, Special Issue, 1 September 1977, ERN 00486263.

<sup>509</sup> **D114/297.1.27**, Transcript of Hearing on the Substance in Case 002/02 [Seng Soeun], 29 August 2016, ERN 01369860, lines 11-20, ERN 01369861, lines 8-17; **D114/123**, Written Record of Interview of Witness Chuon Thy, 18 September 2015, ERN 01168344, A21, ERN 01168346, A32, A35; **D114/303**, Written Record of Interview of Witness Chuon Thy, 28 February 2017, ERN 01513880-01513881, A22-A30, A33-A34, ERN 01513884, A85-A87, A91; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148770, A96, ERN 01148784, A204, A206-A209; **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347046, lines 12-25, ERN 01347047, lines 3-25, ERN 01347048, lines 1-16; **D98/3.1.179**, Transcript of Hearing on the Substance in Case 002/02 [Meas Voeng], 8 October 2012, ERN 00855076, lines 4-17.

<sup>510</sup> Without formally taking judicial notice of another decision for use in this case, it is possible to conclude from the evidence on Case File 004/2, that there may have been more provinces involved; see **Case File No. 004/2-D360**, [Redacted] Closing Order (Indictment), 16 August 2018, para. 228.

<sup>511</sup> **D4.1.376**, 1976 Colour map of Democratic Kampuchea showing zones as they stood at that time, 3 November 2008 (filing date), ERN KH 00193066; **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361813, lines 24-25, ERN 01361814, lines 1-6; **D4.1.1003**, Report entitled "I Want to Tell You Stories of Sexual Violence During Democratic Kampuchea (1975-1979)" by Bridgette Toy-Cronin, 18 December 2006, ERN 00449489; Battambang Province: D234/2.1.128, Transcript of Hearing on the Substance in Case 002/02 [Nop Ngim], 5 September 2016, ERN 01382710, lines 1-7, ERN 01382711, lines 13-25, ERN 01382712, lines 2-5, ERN 01382713, lines 1-17; **D11/107/3**, Written Record of Interview of Civil Party Applicant Khiem Bo, 1 September 2014, ERN 01044743-01044744, A73-A74; **D11/48/3**, Written Record of Interview of Civil Party Applicant Long Choeum, 25 February 2015, ERN 01088505, A5-A7; Kampong Som Province: See Forced marriage in Kampong Som, paras 444-454; Kampot Province: D10.1.65, Written Record of Interview of Witness Uk Phorn, 22 August 2009, ERN 00372929, ERN 00372932-00372933; **D114/87**, Written Record of Interview of Witness Chhuk Rin, 16 June 2015, ERN 01118166, A1, ERN 01118174-01118175, A71-A82; Kandal Province: D4.1.810, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412180, A23-A24, ERN 00412185-00412186, A65-A75; **D114/297.1.25**, Transcript of Hearing on the Substance in Case 002/02 [Sou Sotheavy], 23 August 2016, ERN 01369716, lines 21-25, ERN 01369717, lines 1-25, ERN 01369718, line 1, ERN 01369720, lines 1-25, ERN 01369721, lines 1-9, ERN 01369722, lines 4-12; Phnom Penh: D4.1.627, Written Record of Interview of Witness Noem Sem, 18 July 2009, ERN 00365658-00365659; **D114/297.1.1**, Written Record of Interview of Witness Ruos Suy, 7 July 2015, ERN 01147799, A22-A24, ERN 01147807, A70, ERN 01147808-01147809, A75-A77, ERN 01147810, A83-A84; Pursat Province: D114/297.1.35, Transcript of Hearing on the Substance in Case 002/02 [Pen Sochan], 12 October 2016, ERN 01361414, lines 1-25, ERN 01361415, lines 1-17; **D114/297.1.36**, Transcript of Hearing on the Substance in Case 002/02 [Nget Chat], 25 October 2016, ERN 01371139, lines 10-25, ERN 01371140, lines 1-8; Siem Reap Province: D234/2.1.132, Transcript of Hearing on the Substance in Case 002/02 [Mom Vun], 16 September 2016, ERN 01385272, lines 7-25, ERN 01385273, lines 1-19; Kampong Chhnang Province: D234/2.1.75, Transcript of Hearing on the Substance in Case 002/02 [Khin Vat], 29 July 2015, ERN 01437856, lines 15-25, ERN 01437857, lines 1-25; Kampong Cham Province: D234/2.1.126, Transcript of Hearing on the Substance in Case 002/02 [Om Xoeun], 22 August 2016, ERN 01361712, lines 4-10, ERN 01361713, lines 16-23, ERN 01361714, lines 1-25, ERN 01361715, lines 1-10; **D114/297.1.36**, Transcript of Hearing on the Substance in Case 002/02 [Say Ngeun], 25 October 2016, ERN 01371168, line 25, ERN 01371169, lines 1-10, ERN 01371170, lines 1-10.



201. **Meas Muth** himself stated during a study session in 1978 that the Marriage Policy aimed to increase the population to 20 million.<sup>512</sup> The implementation of the Marriage Policy typically, but not necessarily, entailed the use of force or coercion.<sup>513</sup> There were also consensually arranged marriages during DK and not every refusal to marry a partner assigned under the Marriage Policy led to negative consequences.<sup>514</sup> The

01371171, lines 1-25, ERN 01371172, lines 1-7, ERN 01371173, lines 2-4; Kampong Thom Province: D4.1.535, Written Record of Interview of Witness Chuop Non, 17 November 2008, ERN 00244155, ERN 00244159; D4.1.537, Written Record of Interview of Witness Au Hau, 18 November 2008, ERN 00250043, ERN 00250047.

<sup>512</sup> D114/103, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148770, A95-A96, ERN 01148783-01148784, A202-A209. In D256/11, *Meas Muth's Response to the International Co-Prosecutor's Final Submission*, 12 April 2018, para. 632, the Defence raise that this testimony refers only to requested marriages as opposed to forced marriages. Nonetheless, while facilitating requests may have been a sub-goal, the Marriage Policy was not implemented only to facilitate requested marriages in Kampong Som.

<sup>513</sup> See paras 202, 204, *Forced marriage in Kampong Som*, paras 444-446, 448-449, 451.

<sup>514</sup> Consensual marriage: D10.1.68, Foreign Broadcast Information Service collection of reports for June 1978, 12 November 2009 (filing date), ERN 00169823; D114/36.1.60, Telegram 61: To respected and beloved Brother about The visit paid by Yugoslavian reporters to Northwest Zone, 15 March 1978, ERN 00434864; D114/36.1.64, Written Record of Interview of Witness Seng Ol, 2 December 2009, ERN 00413906, A17, ERN 00413907, A31; D114/303, Written Record of Interview of Witness Chuon Thy, 28 February 2017, ERN 01513880, A33, ERN 01513891-01513892, A193-A198; D98/3.1.179, Transcript of Hearing on the Substance in Case 002, [Meas Voeun], 8 October 2012, ERN 00855076, lines 4-17; D234/2.1.36, Norodom Sihanouk, Prisoner of Khmer Rouge, 28 April 2017 (filing date) ERN 00632939; D64.1.46, Foreign Broadcast Information Service collection of reports for September 1978, 17 June 2013 (filing date), ERN 00170426; D114/64, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098421, A227-A229. Request to marry: D10.1.68, Foreign Broadcast Information Service collection of reports for June 1978, 12 November 2009 (filing date), ERN 00169823; D114/36.1.60, Telegram 61: To respected and beloved Brother about The visit paid by Yugoslavian reporters to Northwest Zone, 15 March 1978, ERN 00434864; D114/303, Written Record of Interview of Witness Chuon Thy, 28 February 2017, ERN 01513880, A33, ERN 01513891-01513892, A193-A198; D98/3.1.179, Transcript of Hearing on the Substance in Case 002, [Meas Voeun], 8 October 2012, ERN 00855076, lines 4-17; D114/33, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074452, A161; D114/134, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173829, A184; D114/32, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057622, A29; D114/139, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184834-01184835, A137; D234/2.1.141, Transcript of Hearing on the Substance in Case 002/02, [Mak Chhoeun], 12 December 2016, ERN 01391194, lines 22-25, ERN 01391195, lines 1-2; D114/64, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098421, A227-A229; D114/47, Written Record of Interview of Civil Party Applicant Teu Ry, 18 February 2015, ERN 01079942, A97; D114/297.1.23, Transcript of Hearing on the Substance in Case 002/02, [Moeng Vet], 27 July 2016, ERN 01347037, lines 2-14. Refusal without consequence: D114/113, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170547-01170548, A236; D114/303, Written Record of Interview of Witness Chuon Thy, 28 February 2017, ERN 01513891-01513892, A193-A198; D114/297.1.29, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361800, lines 4-21; D4.1.522, Written Record of Interview of Witness Sou Soeun, 5 July 2009, ERN 00360115-00360116; D114/83, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128182, A45-A46; D114/38, Written Record of Interview of Witness Chum Roem, 29 January 2015, ERN 01067839, A89-A90, A92, ERN 01067841, A106; D114/64, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098415, A159, ERN 01098416, A162-163, ERN 01098418-01098419, A192, A197-198; D114/129, Written Record of Interview of Witness Oem Hun, 30 September 2015, ERN 01168383, A72-A74; D114/91, Written Record of Interview of Witness Seng Ol, 13 July 2015, ERN 01147532, A168-A170.



personal involvement of several witnesses in the arrangement of marriages at the time does not undermine the general findings in this matter.<sup>515</sup>

202. Yet, in many instances, the implementation of the Marriage Policy resulted in marriages under coercive circumstances.<sup>516</sup> The CPK assumed authority for spousal selection, both in matching couples and approving or rejecting individual requests to

<sup>515</sup> See **D114/36.1.64**, Written Record of Interview of Witness Seng Ol, 2 December 2009, ERN 00413906, A17-A20, ERN 00413907, A23-A24; **D114/303**, Written Record of Interview of Witness Chuon Thy, 28 February 2017, ERN 01513881, A34-A37; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170548, A237; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098421, A227-A228; **D98/3.1.179**, Transcript of Hearing on the Substance in Case 002/02 [Meas Voeun], 8 October 2012, ERN 00855076, lines 4-17.

<sup>516</sup> **D114/75**, Written Record of Interview of Witness Sin Sisopha, 25 May 2015, ERN 01111743-01111744, A10, A14-A18, A31, ERN 01111746, A50-A52; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170568, A256-A258, A262-A265; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A22-A24; **D4.1.810**, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412185, A66-A72; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076794, A293-A295; **D234/2.1.128**, Transcript of Hearing on the Substance in Case 002/02 [Nop Ngim], 5 September 2016, ERN 01382706, lines 11-13, ERN 01382711, lines 21-25; **D234/2.1.65**, Transcript of Hearing on the Substance in Case 002/02 [Cheang Sreimon], 29 January 2015, ERN 01403286, lines 11-17, ERN 01403289, lines 16-22; **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347044, lines 5-25, ERN 01347045, lines 1-10; **D234/2.1.137**, Written Record of Interview of Witness Preap Sokhoeun, 8 October 2014, ERN 01050562-01050563, A12-A13; **D10.1.35**, Written Record of Interview of Witness Mao Phat, 6 May 2008, ERN 00272581; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098415-01098416, A159-A163, ERN 01098418, A197; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618-01057619, A6-A10, ERN 01057620-01057621, A21, ERN 01057622, A32-A33; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074451-01074452, A156-A162; **D54/117**, Written Record of Interview of Witness Meas Saran, 21 August 2014, ERN 01063204-01063205, A29-A35; **D234/2.1.65**, Transcript of Hearing on the Substance in Case 002/02 [Cheang Sreimon], 29 January 2015, ERN 01403285, lines 5-10, lines 22-25, ERN 01403286, lines 1-17; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173816-01173817, A67-75, ERN 01173820-01173821, A105-A108; **D114/129**, Written Record of Interview of Witness Oem Hun, 30 September 2015, ERN 01168384, A80-A83, ERN 01168385, A89-A90; **D114/304**, Written Record of Interview of Witness Yun Bunna, 7 March 2017, ERN 01505880, A69-A71, ERN 01505883, A91-A96; **D114/34**, Written Record of Interview of Civil Party Applicant Nap Somaly, 22 January 2015, ERN 01069371, A141, ERN 01069373, A154; **D114/47**, Written Record of Interview of Civil Party Applicant Teu Ry, 18 February 2015, ERN 01079944, A111-A119; **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361799, lines 4-24, ERN 01361800, lines 4-21; ERN 01361802, lines 3-7. *Contra* **D114/297.1.33**, Transcript of Hearing on the Substance in Case 002/02 [Peggy Levine], 10 October 2016, ERN 01362018, lines 20-25, ERN 01362019, lines 1-5 as confirmed in **D114/297.1.34**, Transcript of Hearing on the Substance in Case 002/02 [Peggy Levine], 11 October 2016, ERN 01361249, lines 8-9, 23-24, ERN 01361255, lines 16-23, ERN 01361256, lines 10-15, ERN 01361291, lines 16-23, ERN 01361341, lines 2-8; **D114/297.1.35**, Transcript of Hearing on the Substance in Case 002/02 [Peggy Levine], 12 October 2016, ERN 01361371, lines 12-25 (weddings were not forced). See also **D114/297.1.33**, Transcript of Hearing on the Substance in Case 002/02 [Peggy Levine], 10 October 2016, ERN 01362040, lines 2-9, 13-17, ERN 01362048, lines 3-7; **D114/297.1.34**, Transcript of Hearing on the Substance in Case 002/02 [Peggy Levine], 11 October 2016, ERN 01361251, lines 12-17, ERN 01361255, lines 6-15, ERN 01361267, lines 3-6, ERN 01361270, lines 24-25, ERN 01361271, lines 1-2, ERN 01361300, lines 20-23; **D114/297.1.35**, Transcript of Hearing on the Substance in Case 002/02 [Peggy Levine], 12 October 2016, ERN 01361355, lines 15-23, ERN 01361365, lines 1-3, ERN 01361393, lines 13-17 (yet acknowledging occasions of consequences upon refusal, prescription for sex, surveillance at night regarding marriage consummation, threat of violence, general climate of fear).



marry,<sup>517</sup> so as to guarantee no connection to “*enemy strings or bad elements*” with selection based on political, ethnic, and class background.<sup>518</sup> Often matched with a stranger, many did not know about their wedding or their spouse more than a day in advance<sup>519</sup> with some told to attend a meeting which turned out to be their wedding.<sup>520</sup>

<sup>517</sup> **D114/36.1.59**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417942-00417943; **D114/146**, Written Record of Interview of Witness Uy Nhoek, 14 December 2015, ERN 01185628-01185629, A38-A41; **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361784, lines 4-16; **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347041, lines 16-25, ERN 01347042, lines 1-7, ERN 01347044, lines 5-11; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098415-01098416, A159-A160, ERN 01098418, A192, A197; **D11/54/3.1**, Transcript of Hearing on the Substance in Case 002/02 [Preap Sokhoeun], 24 October 2016, ERN 01362067, lines 13-19; **D114/297.1.16**, Sexual violence against ethnic minorities during the Khmer Rouge regime, 5 January 2017 (filing date), ERN 00992260, ERN 00992278; **D88.1.32**, Michael Vickery, Cambodia 1975-1982, 30 October 2013 (filing date), ERN 00839051; **D234/2.1.14**, Gina Chon and Thet Sambath, “Behind the killing fields: a Khmer Rouge leader and one of his victims”, 28 April 2017 (filing date), ERN 00757496.

<sup>518</sup> **D114/36.1.59**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417943; **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347042, lines 4-25, ERN 01347043, lines 1-17; **D114/297.1.27**, Transcript of Hearing on the Substance in Case 002/02 [Seng Soeun], 29 August 2016, ERN 01369843, lines 7-10; **D114/36.1.63**, Written Record of Interview of Witness Kheu Hun, 7 May 2008, ERN 00272626; **D4.1.810**, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412185, A65-A66, A69; **D4.1.537**, Written Record of Interview of Witness Au Hau, 18 November 2008, ERN 00250047; **D11/255/3**, Transcript of Hearing on the Substance in Case 002/02 [Meas Layhuor T.], 26 May 2015, ERN 01478058, lines 18-25, ERN 01478059, lines 1-10; **D234/2.1.76**, Transcript of Hearing on the Substance in Case 002/02 [Om Chy], 30 July 2015, ERN 01444811, lines 12-18, ERN 01444812, lines 3-6, lines 8-12; **D234/2.1.65**, Transcript of Hearing on the Substance in Case 002/02 [Cheang Sreimon], 29 January 2015, ERN 01403286, lines 11-25, ERN 01403287, lines 1-4; **D234/2.1.74**, Written Record of Interview of Witness Muol Eng, 4 May 2015, ERN 01111848, A222. See also **D4.1.806**, Written Record of Interview of Witness Cheang Sreimom, 11 November 2009, ERN 00410264, A8.

<sup>519</sup> **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A22; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076794, A293-A298; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A5-A6, ERN 01057619, A13; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184834-01184835, A135-A137; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170568, A266, ERN 01170572, A316; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170547, A226; **D234/2.1.137**, Written Record of Interview of Witness Preap Sokhoeun, 8 October 2014, ERN 01050562-01050563, A13, ERN 01050566, A23, ERN 01050569, A34; **D114/87**, Written Record of Interview of Witness Chhouk Rin, 16 June 2015, ERN 01118174, A71; **D4.1.806**, Written Record of Interview of Witness Cheang Sreimom, 11 November 2009, ERN 00410263-00410264, A7-A8; **D234/2.1.74**, Written Record of Interview of Witness Muol Eng, 4 May 2015, ERN 01111847, A211; **D114/297.1.27**, Transcript of Hearing on the Substance in Case 002/02 [Seng Soeun], 29 August 2016, ERN 01369841, lines 19-25, ERN 01369842, lines 15-23; **D234/2.1.128**, Transcript of Hearing on the Substance in Case 002/02 [Nop Ngim], 5 September 2016, ERN 01382726, lines 8-12, lines 17-20; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173820-01173821, A108; **D114/120**, Written Record of Interview of Witness Oum It, 9 September 2015, ERN 01168300, A23-A24; **D114/75**, Written Record of Interview of Witness Sin Sisopal, 25 May 2015, ERN 01111744, A32.

<sup>520</sup> **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148779, A168-170; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173818, A84-A85, ERN 01173820, A102-A103; **D10.1.65**, Written Record of Interview of Witness Uk Phorn, 22 August 2009, ERN 00372932; **D234/2.1.128**, Transcript of Hearing on the Substance in Case 002/02 [Nop Ngim], 5 September 2016, ERN 01382726, lines 17-24; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A6-A8; **D114/47**, Written Record of Interview of Civil Party Applicant Teu Ry, 18 February 2015, ERN 01079944, A117.



Group ceremonies were the norm,<sup>521</sup> arranged by, presided over, and/or attended by civilian and military CPK personnel.<sup>522</sup> Wedding ceremonies were conducted without regard to Buddhist or Cambodian traditions, in the form of brief meetings at which couples either exchanged vows or were simply declared married.<sup>523</sup> Although there is

<sup>521</sup> **D4.1.919**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 December 2009, ERN 00414334; **D114/87**, Written Record of Interview of Witness Chhouk Rin, 16 June 2015, ERN 01118174-01118175, A71-A82; **D234/2.1.74**, Written Record of Interview of Witness Muol Eng, 4 May 2015, ERN 01111846-01111847, A205-A211; **D4.1.740**, Written Record of Interview of Witness Mour Seta, 19 August 2009, ERN 00373370; **D114/75**, Written Record of Interview of Witness Sin Sisophal, 25 May 2015, ERN 01111746, A50-A52; **D114/303**, Written Record of Interview of Witness Chuon Thy, 28 February 2017, ERN 01513881, A35-A38, ERN 01513882, A62; **D114/34**, Written Record of Interview of Civil Party Applicant Nap Somaly, 22 January 2015, ERN 01069371-01069372, A139-A148; **D114/47**, Written Record of Interview of Civil Party Applicant Teu Ry, 18 February 2015, ERN 01079941, A87-A89, ERN 01079942, A96, ERN 01079943, A110; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098419-01098420, A206; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A2-A6; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170547, A229-A232; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235044, A29; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076791, A267-A268; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170568, A257, ERN 01170569, A271-A276; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A26, A30; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074451, A155-A157, ERN 01074452, A161; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173816, A68-A69, ERN 01173818, A86; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184834-01184835, A135-A137; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148785, A211. *Contra* **D114/129**, Written Record of Interview of Witness Oem Hum, 30 September 2015, ERN 01168385, A93; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148778, A160-A163.

<sup>522</sup> **D114/36.1.64**, Written Record of Interview of Witness Seng Ol, 2 December 2009, ERN 00413907-00413908, A31-A33, A36-A37; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098419-01098420, A206-A207; **D114/75**, Written Record of Interview of Witness Sin Sisophal, 25 May 2015, ERN 01111745, A42-A45, ERN 01111752, A129-A130; **D114/120**, Written Record of Interview of Witness Oum It, 9 September 2015, ERN 01168300, A23; **D114/47**, Written Record of Interview of Civil Party Applicant Teu Ry, 18 February 2015, ERN 01079940, A85, ERN 01079942, A96, ERN 01079945, A126-A127; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173818, A85-A87, ERN 01173821-01173822, A113-A122; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076791, A268-A269, A271, ERN 01076794, A293-A294, ERN 01076795, A300-A304; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148770, A96, ERN 01148778, A161, ERN 01148780, A175-A176; **D114/304**, Written Record of Interview of Witness Vun Bunna, 7 March 2017, ERN 01505880, A69-A71, ERN 01505881, A81-A82, ERN 01505882, A86, ERN 01505883, A96, ERN 01505884, A107; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074451, A155-A156, A158, ERN 01074455, A181; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A25-A26, A28-A30; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A2, A5-A8, ERN 01057620-01057621, A21-A22, ERN 01057622, A28; **D114/34**, Written Record of Interview of Civil Party Applicant Nap Somaly, 22 January 2015, ERN 01069371, A141, ERN 01069372, A145-A146, ERN 01069373, A154; **D234/2.1.65**, Transcript of Hearing on the Substance in Case 002/02 [Cheang Sreimon], 29 January 2015, ERN 01403286, lines 6-17; **D114/129**, Written Record of Interview of Witness Oem Hun, 30 September 2015, ERN 01168384, A80, ERN 01168385, A89-A90, ERN 01168386, A94.

<sup>523</sup> **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098419-01098420, A205-A209; **D114/123**, Written Record of Interview of Witness Chuon Thy, 18 September 2015, ERN 01168344, A21-A22; **D10.1.65**, Written Record of Interview of Witness Uk Phorn, 22 August 2009, ERN 00372932-00372933; **D11/54/3.1**, Transcript of Hearing on the Substance in Case 002/02 [Preap Sokhoeurn], 24 October 2016, ERN 01362073, lines 20-25, ERN 01362074, lines 1-7; **D98/3.1.250**, Transcript of Hearing on the Substance in Case 002/02 [Sar Kimlomouth], 4 June 2012, p. 72, lines 16-22; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148781, A183-A184; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170570, A291, A293, A296-298.



evidence of their presence in some instances, parents were mostly absent during wedding ceremonies.<sup>524</sup> It is not clear whether celebrating weddings in the absence of the couples' parents was a CPK policy, or a consequence of the roles assumed by CPK officials in the marriage process and of the arrangement of marriages on short notice. People were not allowed to divorce the spouses "Angkar" had selected for them.<sup>525</sup>

203. Newlyweds typically had to cohabitate for a short period: some were also ordered to consummate the marriage and many were monitored regarding consummation.<sup>526</sup> This

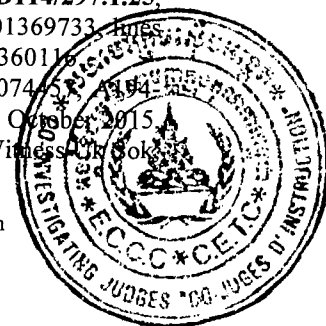
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Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057620-01057621, A21, ERN 01057622-01057623, A35-A38; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074451, A155, ERN 01074452, A166, ERN 01074454-01074455, A173-A179; **D4.1.817**, Written Record of Interview of Witness Bun Thien, 17 August 2009, ERN 00384409; **D114/129**, Written Record of Interview of Witness Oem Hun, 30 September 2015, ERN 01168385, A92; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076791, A268; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184834-01184835, A137-A138; **D114/75**, Written Record of Interview of Witness Sin Sisopha, 25 May 2015, ERN 01111745, A44-A45; **D114/120**, Written Record of Interview of Witness Oum It, 9 September 2015, ERN 01168300, A23; **D114/47**, Written Record of Interview of Civil Party Applicant Teu Ry, 18 February 2015, ERN 01079944, A117, ERN 01079945-01079946, A124, A127-A128; **D114/36.1.64**, Written Record of Interview of Witness Seng Ol, 2 December 2009, ERN 00413908, A34. *See also* couples told to follow "Angkar", produce children or resume farming: **D114/75**, Written Record of Interview of Witness Sin Sisopha, 25 May 2015, ERN 01111745, A44-A46; **D114/297.1.28**, Transcript of Hearing on the Substance in Case 002/02 [Chea Dieb], 30 August 2016, ERN 01369994, lines 20-25, ERN 01369995, lines 1-7; **D114/120**, Written Record of Interview of Witness Oum It, 9 September 2015, ERN 01168300, A23; **D114/36.1.64**, Written Record of Interview of Witness Seng Ol, 2 December 2009, ERN 00413908, A34; **D114/297.1.25**, Transcript of Hearing on the Substance in Case 002/02 [Sou Sotheavy], 23 August 2016, ERN 01369724, lines 4-17.

<sup>524</sup> Absence of family members: **D114/120**, Written Record of Interview of Witness Oum It, 9 September 2015, ERN 01168300, A23; **D114/47**, Written Record of Interview of Civil Party Applicant Teu Ry, 18 February 2015, ERN 01079944, A118; **D11/54/3.1**, Transcript of Hearing on the Substance in Case 002/02 [Preap Sokhoeum], 24 October 2016, ERN 01362073, lines 24-25, ERN 01362074, lines 1-3; **D114/297.1.36**, Transcript of Hearing on the Substance in Case 002/02 [Nget Chat], 25 October 2016, ERN 01371140, lines 10-16; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170570, A296; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057622, A34; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173820, A106-A107; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098419-01098420, A206, A208-A209; **D234/2.1.137**, Written Record of Interview of Witness Preap Sokhoeum, 8 October 2014, ERN 01050565-01050566, A22; **D98/1.2.10**, Transcript of Hearing on the Substance in Case 001 [Chum Neou], 24 August 2009, ERN 00370660, lines 4-17. Presence of family members: **D114/91**, Written Record of Interview of Witness Seng Ol, 13 July 2015, ERN 01147531, A157; **D114/75**, Written Record of Interview of Witness Sin Sisopha, 25 May 2015, ERN 01111745, A39, ERN 01111752, A129; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148781, A184; **D4.1.521**, Written Record of Interview of Witness Tep Poch, 4 July 2009, ERN 00351705; **D4.1.624**, Written Record of Interview of Sao Sarun, 30 June 2009, ERN 00348373.

<sup>525</sup> **D11/255/3**, Transcript of Hearing on the Substance in Case 002/02 [Meas Layhuor], 26 May 2015, ERN 01478055, lines 22-23, ERN 01478063, lines 9-15; **D4.1.810**, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412186, A74; **D11/226/3**, Written Record of Interview of Civil Party Applicant Keo Theary, 8 December 2014, ERN 01057770, A61; **D11/54/3.1**, Transcript of Hearing on the Substance in Case 002/02 [Preap Sokhoeum], 24 October 2016, ERN 01362147, lines 1-7; **D114/297.1.25**, Transcript of Hearing on the Substance in Case 002/02 [Sou Sotheavy], 23 August 2016, ERN 01369733, lines 2-5. *See also* **D4.1.522**, Written Record of Interview of Witness Sou Soeun, 5 July 2009, ERN 00360119.

<sup>526</sup> **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074451, A194, ERN 01074460, A218; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173824, A141-A144, ERN 01173825, A151; **D114/53**, Written Record of Interview of Witness Uk Sok,





often resulted in non-consensual sexual intercourse, occasionally involving violence from the male spouse, or as the result of being under surveillance or fear.<sup>527</sup> Newlyweds were then sent back to their respective units.<sup>528</sup> Aside from one witness stating that a rule existed according to which disabled married men were required to meet their wives every 10 days,<sup>529</sup> the rest of the evidence indicates that couples were “allowed” to meet

25 February 2015, ERN 01076795-01076796, A307-A312; **D114/304**, Written Record of Interview of Witness Vun Bunna, 7 March 2017, ERN 01505885, A111-A114; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A28; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148781, A187, ERN 01148782, A193, A196; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A5, ERN 01057620-01057621, A21, ERN 01057624, A44-A45, ERN 01057626, A58-A59; **D54/117**, Written Record of Interview of Witness Meas Saran, 21 August 2014, ERN 01063204-01063205, A34-A35; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170569, A273, ERN 01170571, A305-A308; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098421, A230-A233; **D114/120**, Written Record of Interview of Witness Oum It, 9 September 2015, ERN 01168300, A23-A25; **D114/297.1.35**, Transcript of Hearing on the Substance in Case 002/02 [Pen Sochan], 12 October 2016, ERN 01361434, lines 1-19; **D234/2.1.132**, Transcript of Hearing on the Substance in Case 002/02 [Mom Vun], 16 September 2016, ERN 01385283, lines 1-22; **D234/2.1.96**, Transcript of Hearing on the Substance in Case 002/02 [In Yoeung], 3 February 2016, ERN 01405746, lines 20-25, ERN 01405747, lines 1-8; **D11/151/3**, Written Record of Interview of Civil Party Applicant Pov Sinuon, 10 October 2013, ERN 00979979, A79; **D4.1.927**, Written Record of Interview of Civil Party Applicant Heng Lai Heang, 23 November 2009, ERN 00414567, A31-A32; **D11/75/3**, Written Record of Interview of Civil Party Applicant Chech Sopha, 13 October 2014, ERN 01050637-01050638, A116-A119; **D11/226/3**, Written Record of Interview of Civil Party Applicant Keo Theary, 8 December 2014, ERN 01057767-01057768, A45; **D11/61/3.1**, Transcript of Hearing on the Substance in Case 002/02 [Ry Pov], 12 February 2015, ERN 01452140, lines 19-25, ERN 01452141, lines 1-4. *See contra* **D234/2.1.129**, Written Record of Interview of Nop Ngim, 12 August 2014, ERN 01044686, A70; **D4.1.808**, Written Record of Interview of Duk Suo, 10 November 2009, ERN 00404733, A94.

<sup>527</sup> **D234/2.1.137**, Written Record of Interview of Witness Preap Sokhoeum, 8 October 2014, ERN 01050572-01050574, A43-A47; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148782-01148783, A192-A201; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057624-01057625, A48-A56; **D11/151/3**, Written Record of Interview of Civil Party Applicant Pov Sinuon, 10 October 2013, ERN 00979979, A79; **D114/120**, Written Record of Interview of Witness Oum It, 9 September 2015, ERN 01168300, A23; **D4.1.806**, Written Record of Interview of Witness Cheang Sreimom, 11 November 2009, ERN 00410264, A8; **D114/297.1.25**, Transcript of Hearing on the Substance in Case 002/02 [Sou Sotheavy], 23 August 2016, ERN 01369729, lines 4-25, ERN 01369730, lines 1-7; **D234/2.1.65**, Transcript of Hearing on the Substance in Case 002/02 [Cheang Sreimon], 29 January 2015, ERN 01403328, lines 14-23. *See also* **D234/2.1.37**, Kasumi Nagakawa, Gender-Based violence during the Khmer Rouge Regime, ERN 00421892, ERN 00421895-00421897, ERN 00421920; **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361806, lines 1-25, ERN 01361807, lines 1-25, ERN 01361808, lines 1-12, ERN 01361833, lines 24-25, ERN 01361834, lines 1-14; **D4.1.1003**, Report entitled “I Want to Tell You Stories of Sexual Violence During Democratic Kampuchea (1975-1979)” by Bridgette Toy-Cronin, 18 December 2006, ERN 00449488-00449494.

<sup>528</sup> **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074457, A194-A195, ERN 01074460, A218; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076796, A311-A312; **D114/304**, Written Record of Interview of Witness Vun Bunna, 7 March 2017, ERN 01505882, A87; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057626, A58-A59; **D10.1.28**, Written Record of Interview of Witness Saom Mon, 15 January 2008, ERN 00163771; **D234/2.1.75**, Transcript of Hearing on the Substance in Case 002/02 [Mam Soeurm], 29 July 2015, ERN 01437854, lines 2-6; **D114/34**, Written Record of Interview of Civil Party Applicant Nap Somak, 15 January 2015, ERN 01069371, A142. *See also* **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361793, lines 11-19.

<sup>529</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076797, A327.





once every week to once a month.<sup>530</sup> The CPK monitored birth and marriage rates,<sup>531</sup> however, the evidence regarding set marriage targets is inconclusive.<sup>532</sup>

204. There is no clear evidence of a detailed high-level policy as to which consequences a refusal to get married and/or to consummate the marriage would entail. CPK publications and cadres warned against challenging decisions on marriage.<sup>533</sup> However, in the pervading climate of fear in DK, and as the CPK knew, matters would, and did, take care of themselves. Many people state that they or others could not, or dared not, refuse because they feared repercussions. In some cases, such fear was caused by explicit threats,<sup>534</sup> in others, it was due to the general fear of what might happen if one opposed the Regime,<sup>535</sup> because a refusal to marry or to consummate the marriage often

<sup>530</sup> **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074460-01074461, A222-A224; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098421-010984222, A234-A238; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170572, A329-A331; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173825, A154; **D114/297.1.36**, Transcript of Hearing on the Substance in Case 002/02 [Say Naroeun], 25 October 2016, ERN 01371176, lines 10-22; **D114/297.1.25**, Transcript of Hearing on the Substance in Case 002/02 [Sou Sotheavy], 23 August 2016, ERN 01369731, lines 1-3; **D234/2.1.136**, Transcript of Hearing on the Substance in Case 002/02 [Preap Sokhoeun], 20 October 2016, ERN 01361559, lines 1-9, lines 14-25, ERN 01361560, lines 1-18.

<sup>531</sup> **D64.1.45**, Foreign Broadcast Information Service collection of October 1978, 17 June 2013 (filing date), ERN 00170168; **D234/2.1.38**, "Interviews with Democratic Kampuchea Leader on Population Policy and Struggle Against Vietnam", 2 November 1981, ERN 00030349; **D234/2.1.130**, Written Record of Interview of Witness Nop Ngim, 7 May 2015, ERN 01111860-01111861, A16-A18. *See also* **D114/123**, Written Record of Interview of Witness Chuon Thy, 18 September 2015, ERN 01168341, A2-A4, ERN 01168345, A30; **D114/303**, Written Record of Interview of Witness Chuon Thy, 28 February 2017, ERN 01513880, A30, ERN 01513881-01513882, A49-A51.

<sup>532</sup> **D4.1.810**, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412186, A75-A76; **D114/297.1.1**, Written Record of Interview of Witness Ruos Suy, 7 July 2015, ERN 01147809, A77-A78.

<sup>533</sup> **D114/36.1.59**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417943; **D234/2.1.74**, Written Record of Interview of Witness Muol Eng, 4 May 2015, ERN 01111846-01111847, A205-A210; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173823, A128. *See also* **D11/12/4**, Written Record of Interview of Civil Party Applicant Ek Virak, 25 August 2014, ERN 01079694-01079695, A59.

<sup>534</sup> Being killed: **D114/75**, Written Record of Interview of Witness Sin Sisopha, 25 May 2015, ERN 01111744, A18, A21, A25, A31, ERN 01111745, A35-A36; **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361800, lines 22-25, ERN 01361801, lines 1-25, ERN 01361802, lines 1-7. Being detained: **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170568, A262; **D11/35/3**, Written Record of Interview of Civil Party Applicant Mom Sroeurng, 11 November 2014, ERN 01053867, A1, ERN 01053870, A9. Never seeing family members again: **D114/47**, Written Record of Interview of Civil Party Applicant Teu Ry, 18 February 2015, ERN 01079944, A111.

<sup>535</sup> **D4.1.806**, Written Record of Interview of Witness Cheang Sreimom, 11 November 2009, ERN 00410264, A8; **D114/297.1.8**, Written Record of Interview of Witness Moeng Vet, 1 September 2015, ERN 01170591, A77, ERN 01170600, A165; **D114/297.1.25**, Transcript of Hearing on the Substance in Case 002/02 [Sou Sotheavy], 23 August 2016, ERN 01369738, lines 3-15; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128182, A46; **D114/32**, Written Record of Interview of Witness Meas Saran, 24 December 2014, ERN 01057619, A10, ERN 01057622, A31-A32; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173829, A185-A188; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074452, A162; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076794-01076795, A293, A295, A299; **D114/78**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076794-01076795, A293, A295, A299.



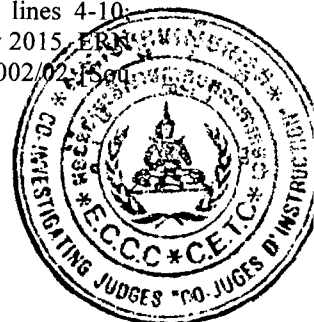
led to punishment: re-education, physical violence, rape or being forced to watch women being raped or being killed.<sup>536</sup>

205. **Meas Muth** implemented the Marriage Policy within his area of authority. Local and military officials under his control in Kampong Som decided who should be matched, planned weddings, and conducted marriage ceremonies.<sup>537</sup>

of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115934, A32-A34; **D114/34**, Written Record of Interview of Civil Party Applicant Nap Somaly, 22 January 2015, ERN 01069373, A154; **D234/2.1.65**, Transcript of Hearing on the Substance in Case 002/02 [Cheang Sreimon], 29 January 2015, ERN 01403285, lines 22-25, ERN 01403286, lines 1-9, ERN 01403287, lines 10-15, ERN 01403289, lines 16-22; **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347044, lines 2-25, ERN 01347045, lines 1-12. *See also* **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361800, lines 22-25, ERN 01361801, lines 1-25, ERN 01361802, lines 1-7.

<sup>536</sup> Generally regarding refusing marriage: **D114/297.1.16**, Sexual violence against ethnic minorities during the Khmer Rouge regime, 5 January 2017 (filing date), ERN 00992246, ERN 00992260, ERN 00992280-00992281. Re-education: **D114/34**, Written Record of Interview of Civil Party Applicant Nap Somaly, 22 January 2015, ERN 01069371, A141, ERN 01069373, A155-A156; **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361803, lines 19-25, ERN 01361804, lines 1-9. Physical violence: **D114/47**, Written Record of Interview of Civil Party Applicant Teu Ry, 18 February 2015, ERN 01079942-01079943, A97-A107; **D234/2.1.37**, Kasumi Nakagawa, Gender-Based violence during the Khmer Rouge Regime, 28 April 2017 (filing date), ERN 00421892-00421893; **D4.1.1003**, Report entitled “I Want to Tell You Stories of Sexual Violence During Democratic Kampuchea (1975-1979)” by Bridgette Toy-Cronin, 18 December 2006, ERN 00449488; **D114/34**, Written Record of Interview of Civil Party Applicant Nap Somaly, 22 January 2015, ERN 01069371, A141. Rape: **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02 [Kasumi Nakagawa], 13 September 2016, ERN 01361802, lines 8-25, ERN 01361803, lines 1-2; **D234/2.1.37**, Kasumi Nakagawa, Gender-Based violence during the Khmer Rouge Regime, 28 April 2017 (filing date), ERN 00421893-00421894; **D4.1.1003**, Report entitled “I Want to Tell You Stories of Sexual Violence During Democratic Kampuchea (1975-1979)” by Bridgette Toy-Cronin, 18 December 2006, ERN 00449489-00449490. *See also* **D11/54/3**, Written Record of Interview of Witness Nget Chat, 26 February 2014, ERN 00986721, A92-A93. Killing or disappearances: **D11/252/4**, Written Record of Interview of Civil Party Applicant Phan Chhean, 29 September 2014, ERN 01047734-01047735, A40-A50; **D234/2.1.126**, Transcript of Hearing on the Substance in Case 002/02 [Om Yoeurn], 22 August 2016, ERN 01361715, lines 22-25, ERN 01361716, lines 1-16; **D234/2.1.132**, Transcript of Hearing on the Substance in Case 002/02 [Mom Vun], 16 September 2016, ERN 01385326, lines 15-22; **D114/297.1.25**, Transcript of Hearing on the Substance in Case 002/02 [Om Yoeurn], 23 August 2016, ERN 01369650, lines 1-9; **D4.1.1003**, Report entitled “I Want to Tell You Stories of Sexual Violence During Democratic Kampuchea (1975-1979)” by Bridgette Toy-Cronin, 18 December 2006, ERN 00449488. Regarding refusal to consummate marriage: **D234/2.1.137**, Written Record of Interview of Witness Preap Sokhoeurn, 8 October 2014, ERN 01050567, A27; **D234/2.1.37**, Kasumi Nakagawa, Gender-Based violence during the Khmer Rouge Regime, ERN 00421920; **D114/297.1.35**, Transcript of Hearing on the Substance in Case 002/02 [Pen Sochan], 12 October 2016, ERN 01361429, lines 9-25, ERN 01361430, lines 1-23, ERN 01361431, lines 3-9, ERN 01361432, lines 4-10; **D234/2.1.65**, Transcript of Hearing on the Substance in Case 002/02 [Cheang Sreimon], 29 January 2015, ERN 01403329, lines 7-16. *See also* **D114/297.1.25**, Transcript of Hearing on the Substance in Case 002/02 [Pen Socheavy], 23 August 2016, ERN 01369729, lines 18-24.

<sup>537</sup> *See Forced Marriages in Kampong Som*, paras 444-445, 447.



### 5.3 Armed conflicts with Vietnam and Thailand

#### 5.3.1 Vietnam

206. Armed hostilities between DK and the SRV occurred between mid-April 1975 and January 1979. Despite some lulls in the fighting – particularly during 1976 – the two States did not, during that period, reach a peace agreement.

207. Fighting between DK and SRV forces took place as early as mid-April 1975<sup>538</sup> at the SRV-DK border.<sup>539</sup> From May 1975, incidents occurred from Kampot to Ratanakiri,<sup>540</sup> and DK forces attacked Koh Tral (known today as Phu Quoc), and Tho Chu islands, and entered into Vietnamese territory.<sup>541</sup> Around June, SRV forces captured the two Koh Poulo Wai and Tho Chu islands,<sup>542</sup> arrested several hundred RAK soldiers, and

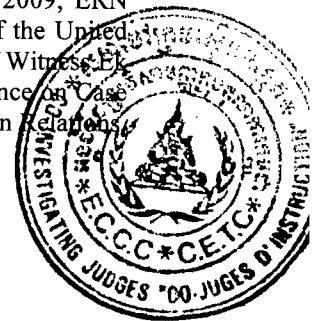
<sup>538</sup> Although there is some evidence that the hostilities had already started before 17 April 1975. See **D32/14**, Written Record of Interview of Witness Long Sat, 2 May 2012, ERN 00976856-00976857, A1-A2; **D32/10**, Written Record of Interview of Witness Khiev Sarân, 25 April 2012, ERN 00919320, A23; **D4.1.346**, Written Record of Interview of Witness Man Nai, 7 November 2007, ERN 00162930.

<sup>539</sup> **D1.3.17.3**, Department of Press and Information of the Ministry of Foreign Affairs of Democratic Kampuchea “Black Paper: Facts and Evidences of the Acts of Aggression and Annexation of Vietnam Against Kampuchea”, 20 November 2008 (filing date), ERN 00082550.

<sup>540</sup> Media reports were used in footnotes only to demonstrate that both sides reported a conflict. None of the subjective information portrayed in the media reports were relied upon. **D1.3.29.2**, International Media Report on Speech of Pol Pot at a 17th January mass meeting on the 10th anniversary of the Cambodian Revolutionary Army - Vietnamese Report of Cambodian Border Encroachments, 19 January 1978, ERN S 00008671; **D234/2.1.1**, Vietnamese-Cambodian Relations, 7 April 1978, ERN 00010500-00010501; **D64.1.34**, Foreign Broadcast Information Service collection of September 1977, 1 September 1977, ERN 00168725; **D4.1.866**, The Revolutionary Flag, Issue 2, 1 February 1978, ERN 00464054, ERN 00464060-00464061.

<sup>541</sup> **D69.1.6**, Facts and Documents on Democratic Kampuchea’s Serious Violations of the Sovereignty and Territorial Integrity of the Socialist Republic of Vietnam, January 1978, ERN 00187273, ERN 00187275, ERN 00187281; **D69.1.36**, The Vietnam-Kampuchea Conflict (A Historical Record), 16 August 2013 (filing date), ERN 00187338; **D54/31**, Written Record of Interview of Witness Soem Ny, 7 November 2013, ERN 00974912-00974913, A1-A4, ERN 00974914, A9; **D69.1.30**, Vietnam-Cambodia Conflict Report, 4 October 1978, ERN 00187387; **D234/2.1.1**, Vietnamese-Cambodian Relations, 7 April 1978, ERN 00010500-00010501.

<sup>542</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116304, A149-A151, ERN 01116308-01116309, A229; **D4.1.1029**, Statement of the Government of Democratic Kampuchea to the Revolutionary Armed Forces and the People of Cambodia, 31 December 1977, ERN 00713104-00713105; **D69.1.23**, Swedish Collection Document 1978 – Statement by Ieng Sary, 1 May 1978, ERN S 00011306; **D64.1.40**, Foreign Broadcast Information Service collection of January 1978, 3 January 1978, ERN 00169520-00169521; **D69.1.3**, Statements of Ieng Sary before the General Assembly of the United Nations on 11 October 1977, 12 October 1978, ERN 00199496; **D4.1.1078**, International Media Report, “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008727; **D114/287**, Written Record of Interview of Witness Heang Ret, 30 November 2016, ERN 01377956, A17, ERN 01377960, A40. **D98/3.1.180**, Transcript of Hearing on the Substance on Case 002/1 [Meas Voeun], 9 October 2012, ERN 00854785, lines 17-25; **D54/6.1.12**, Transcript of Hearing on the Substance on Case 001 [Nayan Chanda], 25 May 2009, ERN 00334092, lines 3-6, lines 14-23; **D69.1.39**, Speech of Ieng Sary to the 34th General Assembly of the United Nations in New York, 9 October 1979, ERN 00633664; **D54/105**, Written Record of Interview of of Witness Ely Ny, 4 June 2014, ERN 01025192-01025192, A4; **D234/2.1.92**, Transcript of Hearing on the Substance on Case 002/2 [Prum Sarat], 26 January 2016, ERN 01408409, lines 3-9; **D234/2.1.1**, Vietnamese-Cambodian Relations, 7 April 1978, ERN 00010500-00010501.



detained them on Koh Tral as prisoners of war.<sup>543</sup> In July or August 1975, members of RAK Battalion 450 were sent to fight the Vietnamese on the Koh Poulo Wai islands.<sup>544</sup> The border fighting saw the use of artillery and aircraft;<sup>545</sup> incidents at the border also happened later in that year.<sup>546</sup>

208. On 4 January 1976, “*fierce fighting*” occurred over Koh Tral, including bombing and attacks by aircraft and helicopters, and the artillery shelling of ships.<sup>547</sup> Fighting occurred sporadically in 1976, in territorial waters and along the border.<sup>548</sup> In March and May 1976, negotiations took place, however no peace settlement was reached.<sup>549</sup>

<sup>543</sup> **D234/2.1.93**, Transcript of Hearing on the Substance on Case 002/2 [Prum Sarat], 27 January 1976, ERN 01408653, lines 8-15, lines 21-23, ERN 01408655, lines 11-18, ERN 01408656, lines 4-6; **D234/2.1.92**, Transcript of Hearing on the Substance on Case 002/2 [Prum Sarat], 26 January 2016, ERN 01408409, lines 3-9; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025192-01025192, A4; **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975219-00975220, A15; **D234/2.1.1**, Vietnamese-Cambodian Relations, 7 April 1978, ERN 00010500-00010501

<sup>544</sup> **D114/187**, Written Record of Interview of Witness Touch Soeurly, 14 March 2016, ERN 01442854, A6, ERN 01442863-01442864, A48-A53.

<sup>545</sup> **D69.1.2**, Telex report about Chhon’s report to Pol Pot on situation on border in region 23, 11 November 1975, ERN 00182595.

<sup>546</sup> **D69.1.6**, Annex 8 Facts and Documents on Democratic Kampuchea’s Serious Violations of the Sovereignty and Territorial Integrity of the Socialist Republic of Vietnam, January 1978, ERN 00187285. *See also* **D234/2.1.92**, Transcript of Hearing on the Substance on Case 002/2 [Prum Sarat], 26 January 2016, ERN 01408415, lines 21-23; **D4.1.237**, The permanent’s meeting of committee on 2-11-75 at 7 o’clock at night, 2 November 1975, ERN 00183413-00183414.

<sup>547</sup> **D1.3.30.2**, Military Monthly Report from Division 164, 5 January 1976, ERN 00231824.

<sup>548</sup> Generally: **D1.3.34.1**, DK Military Telegram entitled “Telegram via Kolaing, To Uncle 89”, 23 January 1976, ERN 00185223; **D1.3.34.4**, DK Military Telegram by Chhin entitled “To Respected Brother”, 16 February 1976, ERN 00185224; **D1.3.34.6**, DK Government Telegram by Ya entitled “Telegram 25 - Dear Respected Brother” 7 March 1976, ERN 00183709; **D1.3.34.8**, DK Government Telegram by Chhon entitled “Telegram 21- Radio Band 676 - To Beloved and Missed Brother Pol”, 21 March 1976, ERN 00185241; **D1.3.34.9**, DK Military Telegram entitled “To Respected Angkar about the Situation on the Border in Sector 25”, 23 March 1976, ERN 00184005; **D1.3.27.3**, Record of Meeting of the Standing Committee, 26 March 1976, ERN 00182651-00182652, ERN 00182657; **D32/7**, Written Record of Interview of Witness Eng An, 5 April 2012, ERN 00808497-00808499, A32-A57; **D4.1.66**, Minutes of Permanent Committee Meeting, 11 March 1976, ERN 00182635-00182636; *see also* **D234/2.1.92**, Transcript of Hearing on the Substance on Case 002/2 [Prum Sarat], 26 January 2016, ERN 01408415, lines 21-23; **D1.3.29.2**, International Media Report on Speech of Pol Pot at a 17th January mass meeting on the 10th anniversary of the Cambodian Revolutionary Army - Vietnamese Report of Cambodian Border Encroachments, ERN S 00008671; **D234/2.1.122**, Transcript of Hearing on the Substance on Case 002/2 [Chhun Samom], 28 June 2016, ERN 01340819, lines 14-25, ERN 01340820, lines 8-11, lines 15-19. Ratanakiri: **D69.1.42**, Khieu Samphan “Consideration on the history of Cambodia from Early stage to the Period of Democratic Kampuchea”, 16 August 2013 (filing date), ERN 00498266-0049867; **D1.3.27.2**, Minutes, Meeting of Standing Committee, Evening of 22 February 1976”, 22 February 1976, ERN 00182625. Kratie and Takeo: **D4.1.66**, Minutes of Permanent Committee Meeting, 11 March 1976, ERN 00182635-00182636; **D69.1.42**, Khieu Samphan “Consideration on the history of Cambodia from Early stage to the Period of Democratic Kampuchea”, 16 August 2013 (filing date), ERN 00498266-0049867. Mondulakiri: **D1.3.27.14**, Minutes of Plenary Meeting of the 920th Division, 7 September 1976, ERN 00184779; **D114/297.1.38**, Transcript of Hearing on the Substance on Case 002/2 [Sov Maing alias Sao Champi], 27 October 2016, ERN 01370559, lines 1-4, ERN 01370560, lines 7-16; **D69.1.42**, Khieu Samphan “Consideration on the history of Cambodia from Early stage to the Period of Democratic Kampuchea”, 16 August 2013 (filing date), ERN 00498266-0049867; *see also* **D4.1.333**, To beloved Brother 89, 9 March 1976, ERN 00335203. Svay Rieng: **D234/2.1.122**, Transcript of Hearing on the Substance on Case 002/2 [Chhun Samom], 28 June 2016, ERN 01340819, lines 14-25, ERN 01340820, lines 8-11, lines 15-19.



209. Throughout 1977, hostilities escalated in frequency and intensity along the border, resulting in territorial incursions, intense fighting, captures, and casualties.<sup>550</sup> DK troops entered Vietnam, including Tay Ninh and Ha Tien provinces,<sup>551</sup> while SRV

Samom], 28 June 2016, ERN 01340819, lines 14-25, ERN 01340820, lines 8-11, lines 15-19; **D1.3.27.2**, Meeting Minutes of Standing Committee, Evening of 22 February 1976, 22 February 1976, ERN 00182625.

<sup>549</sup> March: **D1.3.27.3**, Record of Meeting of the Standing Committee, 26 March 1976, ERN 00182651-00182657; **D1.3.34.6**, DK Government Telegram by Ya entitled “Telegram 25 - Dear Respected Brother” 7 March 1976, ERN 00183709-00183711; **D69.1.42**, Khieu Samphan “Consideration on the history of Cambodia from Early stage to the Period of Democratic Kampuchea”, 16 August 2013 (filing date), ERN 00498266-0049867. May: **D69.1.8**, DK Government Statement to the Cambodia Army and People on Aggression by SRV Armed Forces against DK, 3 January 1978, ERN 00169521; **D69.1.23**, Swedish Collection Document 1978 – Statement by Ieng Sary, 1 May 1978, S 00011306; **D234/2.1.112**, Transcript of Hearing on the Substance in Case 002/02 [Nuon Chea], 27 April 2016, ERN 01298568, lines 3-6.

<sup>550</sup> Generally: **D64.1.34**, Foreign Broadcast Information Service collection of September 1977, 1 September 1977, ERN 00168725-00168726; **D4.1.1078**, International Media Report, “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008730; **D234/2.1.122**, Transcript of Hearing on the Substance on Case 002/2 [Chhun Samom], 28 June 2016, ERN 01340822, lines 5-18; **D114/297.1.38**, Transcript of Hearing on the Substance on Case 002/2 [Sov Maing alias Sao Champi], 27 October 2016, ERN 01370560, lines 11-23; **D32/6**, Written Record of Interview of Witness Kev Vichet, 4 April 2012, ERN 00808487-00808488, A6-A8, ERN 00808489-00808490, A23, A25; **D32/11**, Written Record of Interview of Witness Khiev Saran, 26 April 2012, ERN 00919331-00919332, A1, A5-A6, ERN 00919333, A9; **D1.3.30.11**, CPK Report entitled “To M-870 with respect - Situation along the border in Eastern Zone”, 1 May 1977, ERN 00183715-00183717; **D234/2.1.1**, Vietnamese-Cambodian Relations, 7 April 1978, ERN 00010504; **D114/271**, Written Record of Interview of Witness Pov Son, 28 October 2016, ERN 01375286, A9, ERN 01375287, A20-A23, ERN 01375288, A30-A37; **D4.1.371**, Written Record of Interview of Witness Saom Sam-Ol alias Phuon, 1 April 2008, ERN 00209207; **D1.3.29.2**, International Media Report on Speech of Pol Pot at a 17th January mass meeting on the 10th anniversary of the Cambodian Revolutionary Army - Vietnamese Report of Cambodian Border Encroachments, 19 January 1978, ERN S 00008672; **D1.3.32.44**, Written Record of Interview of Witness Sao Khe, 2 April 2008, ERN 00194976; **D69.1.21**, Speech by Charged Person Khieu Samphan at the mass meeting held on the occasion of the Third Anniversary of the Glorious April 17 and the Founding of Democratic Kampuchea, 17 April 1978, ERN 00280391-00280392; **D69.1.3**, Statements of Ieng Sary before the General Assembly of the United Nations on 11 October 1978, 12 October 1978, ERN 00199496. May: **D1.3.30.13**, Situation along the Svay Rieng border, Zone #23, 21 May 1977, ERN 00654824-00654826; **D234/2.1.8**, Telegram 85: Dear beloved Office 870 with respect, 13 May 1977, ERN 00003518; **D1.3.25.15**, New York Times, 9 August 1977, “Refugees report clashes on Cambodia-Vietnam lines”, 9 August 1977, ERN 00165990; **D1.3.34.18**, DK Military Telegram by Chhan entitled “Telegram 54 - Radio Band 274 - Dear Beloved Office 870”, 20 May 1977, ERN 00185226. June: **D1.3.34.20**, DK Military Telegram by Vi entitled “Telegram 07 - Radio Band 545 - Be It Please Reported to Respected Brother about arrested of 207 Vietnamese enemies”, 15 June 1977, ERN 00897667; **D1.3.34.19**, DK Military Telegram entitled “Region 23, Between 14 to 18 June 1977, The Border Situation”, 20 November 2008 (filing date), ERN 00185247-00185249. Mid-1977: **D114/297.1.39**, Transcript of Hearing on the Substance on Case 002/2 [Ieng Phan], 31 October 2016, ERN 01370628, lines 21-24, ERN 01370629, lines 1-23. August: **D1.3.34.26**, DK Military Telegram by Chhean entitled “Telegram 68 - Radio Band 1630 - To Beloved and Missed Mo [Office] 81”, 30 August 1977, ERN 00182762; **D4.1.215**, To Beloved and Missed Office 870 about the situation along the boundary of region 20 and region 23, 14 August 1977, ERN 00183610. September: **D1.3.29.1**, Declaration of the spokesman of the Ministry of propaganda and information of Democratic Kampuchea, 6 January 1978, ERN 00337187-00337189. October: **D1.3.34.38**, DK Military Telegram by Chhon entitled “Telegram 60 - Radio Band 378 - Dear Respected and Beloved M 870”, 29 October 1977, ERN 00185189. December: **D1.3.34.43**, DK Military Telegram by Chhon entitled “Telegram 91 - Radio Band 262 - Dear Beloved M 870”, 9 December 1977, ERN 00183621; **D32/14**, Written Record of Interview of Witness Long Sat, 2 May 2012, ERN 00976859-00976861, A7, A11-A14.

<sup>551</sup> Generally: **D32/10**, Written Record of Interview of Witness Khiev Saran, 25 April 2012, ERN 00919320, A22, A25; **D32/5**, Written Record of Interview of Witness Kev Vichet, 03 April 2012, ERN 00808483-00808484, A7-A9; **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2016, ERN 01184785, A82, A84, ERN 01184786-01184787, A87, A91-A97, ERN 01184788, A100-A101. **D32/11**, Written Record of Interview of Witness Khiev Saran, 26 April 2012, ERN 00919331-00919332. **D1.3.17.5**, Chanda Nayan, “Brother Enemy: The War after the War”, 20 November 2008 (filing date).



forces penetrated up to several dozen kilometres into DK territory along the border.<sup>552</sup> In addition to the engagement of infantry divisions, tanks, and artillery units, SRV aircraft attacked DK territory and positions,<sup>553</sup> with a report indicating that forces numbered 4,000 to 5,000 on each side.<sup>554</sup> Considered a “*non-declared war*” against DK by Khieu Samphan and Ieng Sary,<sup>555</sup> on 31 December 1977, DK severed its diplomatic relations with the SRV.<sup>556</sup> While one witness opines that the hostilities started only in

00192378; **D54/6.1.12**, Transcript of Hearing on the Substance on case 001 [Nayan Chanda], 25 May 2009, ERN 00334098, lines 1-9; **D98/1.2.5**, Transcript of Hearing on the Substance on Case 001 [Nayan Chanda], 26 May 2009, ERN 0033227, lines 18-25, ERN 00334428, lines 1-7. Ha Tien: **D4.1.211**, Chhean’s telegram no 46 reported to Brother about the aggression of Khmer military on Vietnam border, 15 June 1977, ERN 01347938 (*duplicate EN documents appear on the Case File under D4.1.211. The document with ERN 01182770-01182770 is actually a translation of the KH document D4.1.213, ERN 00001263-00001263 and has been filed under D4.1.211 erroneously*); **D64.1.34**, Foreign Broadcast Information Service collection of September 1977, 1 September 1977, ERN 00168725-00168726.

<sup>552</sup> Generally: **D1.3.29.2**, International Media Report on Speech of Pol Pot at a 17th January mass meeting on the 10th anniversary of the Cambodian Revolutionary Army - Vietnamese Report of Cambodian Border Encroachments, 19 January 1978, ERN S 00008672; **D4.1.1078**, International Media Report, “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008724-00008725; **D4.1.236**, Press Communique of the Spokesman of the Ministry of Propaganda and Information of the Democratic Kampuchea, 25 June 1978, ERN 00079722. Svay Rieng: **D4.1.868**, The Revolutionary Flag, Issue 4, 1 April 1978, ERN 00519832; **D114/29.1.1**, Written Record of Interview of Witness Tea Tit, 28 January 2009, ERN 00284711-00284713; **D4.1.1078**, International Media Report, “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008725; **D4.1.295**, Telegram 46: To Comrade Yi via Office 870 about situation of Kamp-Vietnam border, 5 November 1977, ERN 00324808. Kampot: **D4.1.1078**, International Media Report, “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008725; **D4.1.868**, The Revolutionary Flag, Issue 4, 1 April 1978, ERN 00519832; **D4.1.1029**, Statement of the Government of Democratic Kampuchea to the Revolutionary Armed Forces and the People of Cambodia, 31 December 1977, ERN 00713102. Kampong Cham: **D4.1.868**, The Revolutionary Flag, Issue 4, 1 April 1978, ERN 00519832. Takeo: **D114/297.1.39**, Transcript of Hearing on the Substance on Case 002/2 [Ieng Phan], 31 October 2016, ERN 01370627, lines 12-17; **D4.1.1029**, Statement of the Government of Democratic Kampuchea to the Revolutionary Armed Forces and the People of Cambodia, 31 December 1977, ERN 00713102; **D4.1.1078**, International Media Report, “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008725; **D1.3.25.40**, Far Eastern Relations, 30 March 1978, ERN 00010449; **D4.1.868**, The Revolutionary Flag, Issue 4, 1 April 1978, ERN 00519832.

<sup>553</sup> **D4.1.1078**, International Media Report, “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008724-00008725; **D114/297.1.39**, Transcript of Hearing on the Substance on Case 002/2 [Ieng Phan], 31 October 2016, ERN 01370628, lines 19-25, ERN 01370629, lines 1-13; **D234/2.1.12**, Telegram 05 on 9/6/77 informed to beloved brother 89, 9 June 1977, ERN 00509691; **D4.1.1078**, International Media Report “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008725; **D64.1.34**, Foreign Broadcast Information Service collection of September 1977, 1 September 1977, ERN 00168725-00168726; **D4.1.217**, To Respected Angkar 870 about situation of enemy’s airplanes, 27 August 1977, ERN 00185185; **D1.3.34.51**, DK Military Telegram by Nhim and Hem entitled “Telegram 22 - Radio Band 362 - We Would Like to Report to M 870 as Follows”, 22 December 1977, ERN 00183629.

<sup>554</sup> **D64.1.34**, Foreign Broadcast Information Service collection of September 1977, 1 September 1977, ERN 00168725-00168726.

<sup>555</sup> **D4.1.1078**, International Media Report, “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008724; **D69.1.23**, Swedish Collection Document 1978 – Statement by Ieng Sary, 1 May 1978 ERN S 00011306.

<sup>556</sup> **D69.1.5**, Déclaration du Ministère des Affaires Etrangères du Kampuchéa Démocratique, 31 December 1977, ERN 00282392-00282393; **D69.1.4**, Washington Post, 31 December 1977, “Cambodia Cuts Diplomatic Ties with Vietnam” 31 December 1977, ERN 00166127; **D4.1.1078**, International Media Report, “Cambodia’s Temporary Severance of Relations with Vietnam”, 3 January 1978, ERN S 00008724.



1977,<sup>557</sup> the overwhelming evidence supports the conclusion that they commenced in 1975.

210. In 1978 clashes continued, and escalated, again featuring territorial incursions, and numerous casualties.<sup>558</sup> The CPK attempted further negotiations, however, these were also fruitless.<sup>559</sup> On 31 December 1978, following a large-scale SRV attack, DK seized the United Nations Security Council.<sup>560</sup> By 25 December 1978 over 100,000 Vietnamese troops had already entered DK, leading to the fall of Phnom Penh on 7 January 1979.<sup>561</sup>

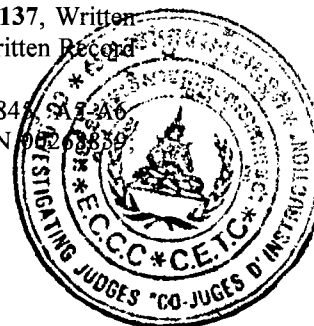
<sup>557</sup> **D114/297.1.39**, Transcript of Hearing on the Substance on Case 002/2 [Ieng Phan], 31 October 2016, ERN 01370627, lines 12-17, ERN 01370628, lines 1-4.

<sup>558</sup> **Generally: D1.3.25.45**, Partial Transcript of Phnom Penh radio broadcast, 10 May 1978, ERN 00003959-00003960; **D4.1.868**, The Revolutionary Flag, Issue 4, 1 April 1978, ERN 00519832-00519833; **D98/1.1.8**, Written Record of Interview of Witness Pol Nhan, 23 May 2013, ERN 00945845, A5-A6; **D69.1.23**, Swedish Collection Document 1978 – Statement by Ieng Sary, 1 May 1978, S 00011306; **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076747, A25-A26, ERN 01076748, A28-A29; **D4.1.553**, Written Record of Interview of Witness Sreng Thi, 6 January 2009, ERN 00282225; **D69.1.29**, Press Communique of the Spokesman of the Ministry of Propaganda and Information of the Democratic Kampuchea, 1 July 1978, ERN 00078180; **D114/75**, Written Record of Interview of Witness Sin Sisopal, 25 May 2015, ERN 01111749, A89-A94, ERN 01111750, A103-A109, ERN 01111753, A137, A141, A144-A145, ERN 01111754, A148; **D114/297.1.38**, Transcript of Hearing on the Substance on Case 002/2 [Sov Maing alias Sao Champi], 27 October 2016, ERN 01370559, lines 1-4, ERN 01370560, lines 11-23. **January: D4.1.225**, Telegram 15: To respected and beloved Office 870 about situation of enemy along route 7, 1 January 1978, ERN 00183642; **D1.3.29.2**, Vietnamese Report of Cambodia Border Encroachments, 18 January 1978, ERN 00008675-00008677; **D69.1.3**, Statements of Ieng Sary before the General Assembly of the United Nations on 11 October 1978, 12 October 1978, ERN 00199496-00199497; **D4.1.230**, DK Military Telegram by Chhon entitled “Telegram 15 - Radio Band 791 - To Respected and Beloved Brother Pol”, 19 January 1978, ERN 00532795-00532796; **D4.1.230**, DK Military Telegram by Chhon entitled “Telegram 15 - Radio Band 791 - To Respected and Beloved Brother Pol”, 19 January 1978, ERN 00532795-00532796. **February: D4.1.313**, DK Military Telegram by Rom entitled “Telegram 06”, 2 March 1978, ERN 00795287. **March: D4.1.315**, International Media Report of Confessions of Phan Thi My and Sam Kim, 15 March 1978, ERN 00009944; **D4.1.316**, DK Military Telegram by Peam entitled “Telegram 28 – Radio Band 305 – To Respected Representative of Angkar”, 23 March 1978, ERN 00185585. **April: D4.1.606**, DK Telegram entitled “Telegram No 18”, 8 April 1978, ERN 00323164; **D4.1.202**, Telegram 02 - To Respected Committee 870: About situation of the battlefield around Road Number 7, 8 April 1978, ERN 00185199. **May: D4.1.608**, Telegram No 11, 6 May 1978, ERN 00322057; **D69.1.24**, The report of the supervision situation in the entire Ploch region for the first week in May 1978, 5 May 1978, ERN 00185207. **July: D1.3.25.55**, FBIS International Media Report entitled “VNA Report of Rout of Cambodian Invading Troops Cited”, 11 July 1978, ERN 00166087. **August and September: D114/132**, Written Record of Interview of Witness Mao Ran, 6 October 2015, ERN 01172511, A225, ERN 01172512, A235. **October: D1.3.34.32**, DK Military Telegram by Chhon entitled “Telegram 54 - Radio Band 642 - Dear Respected, Beloved and Missed M 870”, 26 October 1977, ERN 00182815.

<sup>559</sup> **D114/245**, Written Record of Interview of Witness Norng Sophang, 27 August 2016, ERN 01519255-01519256, A5-A7.

<sup>560</sup> **D1.3.33.1**, Suspect Statement of Ieng Sary alias Van entitled “Telegram from the Deputy Minister in Charge of Foreign Affairs of DK addressed to the President of the Security Council (UN S/13001)”, 31 December 1978, ERN 00081489-00081490; **D69.1.39**, Speech of Ieng Sary to the 34th General Assembly of the United Nations in New York, 9 October 1979, ERN 00633663, ERN 00633665, ERN 00633667. *See also* **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184789, A108; **D32/9**, Written Record of Interview of Witness Khieu Saran, 24 April 2012, ERN 00919390, A3.

<sup>561</sup> **D98/1.1.8**, Written Record of Interview of Witness Pol Nhan, 23 May 2013, ERN 00945845, A5-A6; **D4.1.407**, Written record of Interview of Witness Khun Kim alias Nuon Pet, 30 April 2008, ERN 01026889.





### 5.3.2 Thailand

211. DK and Thailand engaged in sporadic armed hostilities from April 1975 until mid-1978, with occasional but ultimately unsuccessful attempts at peace negotiations.
212. Border incidents occurred in April,<sup>562</sup> June,<sup>563</sup> and December 1975,<sup>564</sup> and one incident at sea in June 1975.<sup>565</sup> On 31 October 1975, following Ieng Sary's diplomatic visit to Bangkok, DK and Thailand signed a joint *communiqué* on peaceful coexistence, agreeing to the immediate establishment of diplomatic relations.<sup>566</sup>
213. Nevertheless border skirmishes, incursions from both sides, maritime incidents, and aerial attacks continued sporadically throughout 1976, in February, July, August, October, and December.<sup>567</sup> In August 1976, it was reported at a meeting in Kampong

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**D32/7**, Written Record of Interview of Witness Eng An, 5 April 2012, ERN 00808500, A60; **D114/117**, Written Record of Interview of witness Nav Sokhan, 7 September 2015, ERN 01170574, A359-A360; **D54/9**, Written Record of Interview of Witness Min Phon, 21 June 2013, ERN 00977327, A14; **D69.1.39**, Speech of Ieng Sary in the 34<sup>th</sup> General Assembly of the United Nations in New York, 9 October 1979, ERN 00633663; **D1.3.25.72**, Washington Post 30 December 1978, "Vietnamese, Cambodians Report Heavy Fighting Following Lull", 30 December 1978, ERN 00166123; **D1.3.17.7**, Stephen Morris, "Why Vietnam Invaded Cambodia: Political Culture and the Causes of War", 20 November 2008 (filing date), ERN 00078209; **D234/2.1.14**, Gina Chon and Thet Sambath, "Behind the killing fields: a Khmer Rouge leader and one of his victims", 28 April 2017 (filing date), ERN 00757541; **D1.3.25.73**, Wall Street Journal 8 January 1979, "Vietnam Takes Cambodian Capital, Port But Guerrilla War is Seen as Continuing", 8 January 1979, ERN 00166181.

<sup>562</sup> **D69.2.15**, New York Times "Shooting and shouting incidents heighten tension in a Thai town on the border facing Cambodia", 24 April 1975, ERN 00165951.

<sup>563</sup> **D1.3.25.7**, Facts on File World News Digest, "Vietnamese, Thai clashes", 26 July 1975, ERN 00166196.

<sup>564</sup> **D1.3.25.8**, Facts on File World News Digest "U.S. combat jets withdrawn", 31 December 1975, ERN 00166124; **D4.1.88**, CPK Standing Committee Meeting Minutes, 9 January 1976, ERN 00182615.

<sup>565</sup> **D1.3.25.7**, Facts on File World News Digest, "Vietnamese, Thai clashes", 26 July 1975, ERN 00166196; **D1.3.25.2**, New York Times, "Thai report brief naval clash with Cambodians", 13 June 1975, ERN 00165959; **D1.3.25.4**, International Media Article "Cambodian and Vietnamese Said to Battle Over Islands", 14 June 1975, ERN 00003551; **D114/27.1.1**, New York Times, "Vietnam said to capture island off Cambodia", 14 June 1975, ERN 00165961.

<sup>566</sup> **D4.1.237**, The permanent's meeting of committee on 2-11-75 at 7 o'clock at night, 2 December 1975, ERN 00183409; **D4.1.991**, Ieng Sary Visit to Thailand, 30 October 1975, ERN 00413835; **D4.1.992**, November 3 EA Press Summary, 3 November 1975, ERN 00413842; **D4.1.993**, Ieng Sary Visit to Thailand, 2 November 1975, ERN 00413848; **D4.1.994**, Ieng Sary Visit to Thailand 7 Nov 75 Report, 7 November 1975, ERN 00413856-00413859; **D4.1.995**, Message Text entitled "Ieng Sary Visit to Thailand", 20 November 1975, ERN 00413888-00413889; **D69.1.13**, DK Media Report entitled "Nouvelles du Kampuchea Démocratique, Ambassade du Kampuchea Démocratique a Pekin" No. 007, 18 February 1978, ERN 00594101; **D114/36.1.8**, Foreign Broadcast Information Service collection of reports for October 1977, 4 March 2018 (filing date), ERN 00168699; **D1.3.25.8**, Facts on File World News Digest "U.S. combat jets withdrawn", 31 December 1975, ERN 00166124.

<sup>567</sup> **February**: **D114/36.1.4**, Foreign Broadcast Information Service collection of reports for February 1976, 4 March 2015 (filing date), ERN 00167793; **July and August**: **D1.3.12.7**, Summary Report from 15 July-31 August 1976, 31 August 1976, ERN 00233963-00233964; **October and December**: **D234/2.1.112**, Transcript of Hearing on the Substance in Case 002/02 [Nuon Chea], 27 April 2016, ERN 01298568, lines 7-11; **D69.1.30**, Foreign Broadcast Information Service collection, 25 February 1977, ERN 00168423; **D54/54**, Written Record of Interview of Witness Meas Voeun, 20 January 2014, ERN 00978534, A21-A23.





Som that, aside from “*illegal fishing*”, the situation at sea had calmed down<sup>568</sup> but it was still considered necessary to strengthen forces at sea and on the islands.<sup>569</sup>

214. Hostilities continued throughout 1977.<sup>570</sup>

215. While, following preparatory diplomatic meetings in October 1977,<sup>571</sup> the DK Ministry of Foreign Affairs restated the desire to live peacefully with Thailand,<sup>572</sup> hostilities continued until June 1978.<sup>573</sup>

<sup>568</sup> **D1.3.8.3**, DK Military Meeting Minutes regarding Deployment of the DK Navy, 3 August 1976, ERN 00234013.

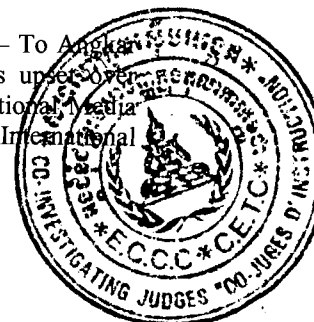
<sup>569</sup> **D54/13.1**, Minutes of the meeting of comrades 164: Report on vessel training, 9 September 1976, ERN 00974009-00974010; **D1.3.8.3**, DK Military Meeting Minutes regarding Deployment of the DK Navy, 3 August 1976, ERN 00234014-00234015.

<sup>570</sup> Generally: **D1.3.25.9**, The Economist “Thailand -- No Fences Make Bad Neighbours”, 5 February 1977, ERN 00166134; **D114/266.1.3**, Press Communique from the DK Ministry of Foreign Affairs, 11 November 1977, ERN 01519467; **D1.3.25.27**, New York Times, “Raids from Cambodia are Worrying Thais”, 23 December 1977, ERN 00165991; **D1.3.25.10**, The Economist, “Thailand and Cambodia - A Border Redrawn with Guns”, 11 June 1977, ERN 00166200; **D64.1.33**, Foreign Broadcast Information Service collection of November 1977, 17 June 2013 (filing date), ERN 00168567; **D1.3.25.17**, Los Angeles Times, “Disputed Thai-Cambodian Border Area a Place of Senseless, Deadly Clashes”, 23 August 1977, ERN 00166110; **D1.3.26.3**, International Media Report Battles along the Border, 12 August 1977, ERN 00007268; **D54/54**, Written Record of Interview of Witness Meas Voeun, 20 January 2014, ERN 009785335-00978536, A27. April: **D1.3.7.1**, The Cambodian Attack on Thai Village, 23 April 1977, ERN 00182073. May: **D1.3.30.15**, DK-Government Report of enemy’s situation by Mo-560 on the situation in the North-West Zone, 29 May 1977, ERN 00183010. June: **D1.3.26.2**, Five Marines Die in Khmer Ambush, 20 June 1977, ERN 00006894. July: **D1.3.25.12**, Facts On File World News Digest: “Thai, Cambodian Border Clashes”, 30 July 1977, ERN 00166192. August: **D10.1.22**, Telegram 38: To respected Angkar 870: about situation of enemy along the border of Thai, 12 August 1977, ERN 00335204; **D4.1.34.1**, Telegram 32: To beloved and missed Brother about event happened on 24/8/77, 27 August 1977, ERN 00335205; **D1.3.14.3**, Telegram 60: To beloved and missed committee 670 about overall situation, 5 September 1977, ERN 00517923; **D4.1.21.7**, To Respected Angkar 870 about situation of enemy’s airplanes, 27 August 1977, ERN 00185185. September: **D1.3.34.27**, DK-Military Telegram by Koh Kong entitled Telegram 38, Western Division Political Section on 13 September 1977, Situation along the borders, 12 September 1977, ERN 00003470; **D4.1.70.2**, Telegram 38 on 13/9/77: Reported about events on the border, 13 September 1977 ERN 01147559. October: **D1.3.25.24**, Facts on File World News Digest “Thais Repel Border Incursions”, 5 November 1977, ERN 00166276. November: **D1.3.25.23**, Washington Post, “Thai-Cambodia Border Clash”, 4 November 1977, ERN 00166275; **D1.3.25.25**, Far Eastern Relations: “Jeng Sary on Farming and Food Supplies,” “Chinese telecommunications delegation in Cambodia,” Chinese diplomat received by Cambodian Deputy Premier, “Cambodian intrusions into Thailand”, 16 November 1977, ERN 00008515. December: **D1.3.34.47**, DK Military Telegram by Se entitled “Telegram 238 - Radio Band 195 - Dear Beloved M 870”, 13 December 1977, ERN 00183625; **D1.3.25.26**, International Media Report “Thai Aircraft Shot Down”, 21 December 1977, ERN 00008283; **D1.3.34.51**, DK Military Telegram by Nhim and Hem entitled “Telegram 22 – Radio Band 362 – We Would Like to Report to M870 as Follows”, 22 December 1977, ERN 00183629.

<sup>571</sup> **D114/36.1.8**, Foreign Broadcast Information Service collection of reports for October 1977, 4 March 2018 (filing date), ERN 00168699; **D114/266.1.3**, Press Communique from the DK Ministry of Foreign Affairs, 11 November 1977, ERN 01519468.

<sup>572</sup> **D114/266.1.3**, Press Communique from the DK Ministry of Foreign Affairs, 11 November 1977, ERN 01519467-01519468; **D64.1.33**, Foreign Broadcast Information Service collection of November 1977, 17 June 2013 (filing date), ERN 00168567-00168568.

<sup>573</sup> February: **D1.3.34.62**, DK Military Telegram by Nhim entitled “Telegram – Radio Band 207 – To Angkar 870 with Respect”, 17 February 1978, ERN 00184994; **D1.3.25.37**, New York Times, “Thais upset over abduction of Thais into Cambodia”, 21 February 1978, ERN 00166004; April: **D1.3.7.4**, International Media Article Thai newspaper on Khmer Rouge incursion, 6 April 1978, ERN 00010324; **D1.3.7.7**, International



216. Diplomatic meetings again took place in the first quarter of 1978 and in July the countries agreed to end incidents along the border.<sup>574</sup> While there is no evidence that a peace agreement was reached, reports on clashes ceased by mid-1978.<sup>575</sup>

#### 5.4 Crimes committed by the DK Navy

##### 5.4.1 Introduction

217. During the periods of armed hostilities with Vietnam and Thailand,<sup>576</sup> the DK Navy and other military personnel of Division 164 carried out, between 1975 and 1979 and independently of military operations against the Thai and Vietnamese armies, a campaign of arrests and executions targeting Vietnamese refugees, including women, children, and the elderly. They were routinely arrested, interrogated, and executed at sea, on the islands under the control of Division 164, and in various locations in Kampong Som. Anti-Vietnamese propaganda was disseminated among Division 164 soldiers,<sup>577</sup> with military instructors telling troops to kill the Vietnamese, even if they

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Media Article “Cambodian Incursions into Thailand Reported”, 17 April 1978, ERN 00010398; **D1.3.7.5**, International Media Article “Cambodian Attack on Thai Village: Thailand to Retaliate”, 11 April 1978, ERN S 00010349-00010350; **D1.3.26.9**, BBC SWB 14 May 1978 International media Report entitled “Romanian Trade Delegation Holds Talks in Cambodia” and “Confession by Captured Vietnamese”, 14 May 1978, ERN S 00010015; **D1.3.25.46**, New York Times, Thai Villagers on Cambodian border being regrouped for defense, 22 May 1978, ERN 00166038. May: **D4.1.206**, To respected Angkar about the general situation and work in zone, 11 May 1978, ERN 00185215; **D4.1.182**, To respected Angkar 870: Report on defense enemy, people’s living standards, planting activities, building forces, 16 May 1978, ERN 00183653. June: **D1.3.34.77**, DK Military Telegram by Nhim entitled “Telegram 63 – Radio Band 200 – Dear beloved and Missed Angkar 870 about enemy situation on the border night 10-06-1976”, 15 June 1978, ERN 00185225; **D1.3.25.48**, International Media Article “Chairman Hua meets Ieng Sary”, “Cambodia Said to Attack Thai Fishing Boats”, 20 June 1978, ERN 00011664. *See also* **D56/3.5**, International media report Tough Warning from Bangkok, 31 July 1978, ERN 00008277; **D1.3.7.6**, International Media Report “Thailand to Contact Cambodia on Kidnapped Villagers”, 14 April 1978, ERN S 00010387-00010388.

<sup>574</sup> January-February: **D69.2.8**, Far Eastern Relations: “Thai Foreign Minister in Cambodia”, 30 January 1978, ERN S 00008874-00008877; **D69.1.13**, DK Media Report entitled “Nouvelles du Kampuchea Démocratique, Ambassade du Kampuchea Démocratique a Pekin” No. 007, 18 February 1978, ERN 00594100; **D64.1.40**, Foreign Broadcast Information Service collection of January 1978, 3 January 1978 ERN 00169663; **D64.1.38**, Foreign Broadcast Information Service collection of February 1978, 17 June 2013 (filing date), ERN 00169172-00169173, ERN 00169188-00169189. March: **D4.1.320**, DK-Military Telegram untitled Telegram 63 – Radio band 755 – To Respected Brother, 4 April 1978, ERN 00185588-00185589. July: **D114/37.1.72**, Foreign Broadcast Information Service collection of reports for July 1978, 4 March 2015 (filing date), ERN 00169717, ERN 00169725; **D114/36.1.28**, Foreign Broadcast Information Service collection of reports for August 1978, 31 August 1978, ERN 00168956; **D1.3.25.56**, International Media Article by the New York Times, 16 July 1978, ERN 00114334; **D1.3.25.57**, International Media Article by the Globe and Mail “Thao Seeks border Peace”, 17 July 1978, ERN 00114335.

<sup>575</sup> *See also* **D55/7**, Written Record of Interview of Phich Daree, 10 May 2013, ERN 00944460, A13; **D64.1.37**, Foreign Broadcast Information Service collection of December 1978, 17 December 1978, ERN 00169129; **D54/6.1.12**, Transcript of Hearing on the Substance in Case 001 [Nayan Chanda], 25 May 2009, ERN 00334156, lines 13-16; **D114/50**, Written Record of Interview of Witness Prum Ngou, 21 February 2015, ERN 01076728, A20.

<sup>576</sup> *See Armed conflicts with Vietnam and Thailand*, paras 206-216.

<sup>577</sup> **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044926-01044927, A41-44; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977333-00977334, A42;



were babies.<sup>578</sup> A former Division 164 member recalls that “*the upper echelon*” had ordered to arrest every Vietnamese, and “*to absolutely smash the Vietnamese race regardless of whether they were just ordinary citizens or fishermen*”.<sup>579</sup>

218. Thai people were also considered as enemies and captured by DK patrol boats.<sup>580</sup> During a meeting attended by **Meas Muth**, his deputies, and Son Sen on 3 August 1976 in Kampong Som, it was first stated that the Thai wanted to take control of some of their islands, but then acknowledged that fishing boats entering DK waters were not “*a big problem*” because they did so not to invade but simply to fish.<sup>581</sup> In spite of this, the evidence shows that Thai fishermen were routinely attacked, captured, and killed by forces under the command of **Meas Muth** and pursuant to his orders. Some Thai prisoners were spared and exchanged for gasoline or other commodities.<sup>582</sup>

#### 5.4.2 Capture of Thai and Vietnamese vessels

219. **Meas Muth** had issued a general order to capture any foreign vessel entering DK’s territorial waters.<sup>583</sup> Vessels that tried to escape were to be fired upon and sunk;<sup>584</sup>

A31-A32; **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977837-00977838, A23; **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992456, A23; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2019, ERN 01055473, A75, ERN 01055474, A83, ERN 01055478-01055480, A109-A110, A115; **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184849, A58-A59.

<sup>578</sup> **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412612-01412613, ERN 01412616.

<sup>579</sup> **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373289, A11-A18.

<sup>580</sup> **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977535, A31-A32; **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977714-00977715, A12-A15; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056666-01056667, A71-A72; **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288-01373289, A11-A21. *See also* **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184849, A57-A59; **D114/132**, Written Record of Interview of Witness Mao Ran, 6 October 2015, ERN 01172490, A69-A70; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076856, A76-A78; **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 011705223, A31; **D1.3.34.64**, Confidential Telephone Message on 20 March 1978, ERN 00233649.

<sup>581</sup> **D1.3.8.3**, Minutes of Meeting of the Military Work in Kampong Som, 3 August 1976, ERN 00234013.

<sup>582</sup> **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184849, A57, ERN 01184850-01184853, A61-A79; **D114/24**, Written Record of Interview of Witness Ou Dav, 11 September 2014, ERN 01074598-01074599, A105-A107, ERN 01074602, A131, ERN 01074605, A157; **D54/11**, Written Record of Interview of Witness Meu Ret, 23 June 2013, ERN 00977243-0977244, A24-A27; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076856, A80; **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148807-01148808, A118-A121; **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184849, A57; **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044937, A104; **D54/11.1**, DK Military Report from Division 164, Political Section “Secret Telephone dated 1 April 1978”, 1 April 1978, ERN 01147584.

<sup>583</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2016, ERN 01056677-01056678, A153-A157; **D114/24**, Written Record of Interview of Witness Ou Dav, 11 September 2014, ERN 01074596, A89-A91, ERN 01074602, A131, ERN 01074605, A157; **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170524-01170525, A38-A39, ERN 01170525-01170526, A40; **D114/11**, Written Record of Interview of Witness Neak Yoeun, 10 October 2014, ERN 01056499-01056500, A153-A157.



survivors would either be shot or left to drown.<sup>585</sup> Units tasked with executing this order, however, were not trained in the laws of the sea, and there are conflicting accounts as to whether they were properly trained with regard to DK's maritime borders.<sup>586</sup> According to a former member of Division 164 who served both on the islands and at sea with Regiment 140,<sup>587</sup> any boat that was stopped had to be captured, whether civilian or military.<sup>588</sup>

220. Troops stationed on the islands<sup>589</sup> and two radar stations on Koh Tang and Bokor Mountain were used to locate and intercept foreign vessels.<sup>590</sup> When naval patrols or other Division 164 personnel spotted or intercepted foreign boats, they had to report up the chain of command to their superiors in the battalion and the regiment, which reported to **Meas Muth** or his deputies at the division-level.<sup>591</sup> Units reporting the

**D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001476, A43-A44; **D114/113**, Written Record of Interview of Witness Koem Men, 13 September 2015, ERN 01170533, A46-A49; **D114/132**, Written Record of Interview of Witness Mao Ran, 6 October 2015, ERN 01172493, A91-A95, ERN 01172495, A111; **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977713, A6. *See also* **D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978515, A24-A26; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977534, A26-A27. *See contra* **D114/19**, Written Record of Interview of Witness Mak Chhoeun, 22 October 2014, ERN 01040436-01040440, A12-A16, A18-A24.

<sup>584</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170525-01170526, A48-A55; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2016, ERN 01056663, A44-A45; **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184849, A57; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977534, A26-A27; **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148801-01148802, A75-A76.

<sup>585</sup> **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977863-00977864, A15-A18, ERN 00977867, A30; **D54/53**, Written Record of Interview of Witness Meas Voeun, 17 January 2014, ERN 00978522-00978523, A9; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2016, ERN 01056663, A45; **D114/112**, Written Record of Interview of Witness of Im Sokhan, 27 August 2015, ERN 01170525, A48; **D54/11.1**, DK Military Report from Division 164, Political Section "Secret Telephone dated 1 April 1978", 1 April 1978, ERN 01147584.

<sup>586</sup> **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992455, A22; **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412839.

<sup>587</sup> **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412581, ERN 01412582.

<sup>588</sup> **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412773, ERN 01412839. *See also* **D234/2.1.92**, Transcript of Hearing on the Substance in Case 002/02 [Prum Sarat], 26 January 2016, ERN 01408476-01408478.

<sup>589</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056662, A26, ERN 01056662, A35-A36.

<sup>590</sup> **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628184, A8; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251774, A79; **D114/19**, Written Record of Interview of Witness Mak Chhoeun, 22 October 2014, ERN 01040438-01040439, A21; **D1.3.8.4**, Minutes of the meeting of comrades 164: Report on vessel training, 9 September 1976, ERN 00657354.

<sup>591</sup> **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2019, ERN 01055484, A128-A130; **D54/116**, Written Record of Interview of Witness Neak Yoeun; ERN 01076877, A36-A40; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977533-00977534, A25, A26; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412581, ERN 01412582.



seizure of a vessel had to specify the nationality of the captured prisoners.<sup>592</sup> Once the sighting or capture of a vessel was reported, **Meas Muth** or his deputies dispatched Patrol Craft Fast (“PCF”) boats of Regiment 140 to intercept it, or radioed back instructions on what to do with captives if any had already been apprehended.<sup>593</sup> The orders were transmitted from the Division down the chain of command.<sup>594</sup> Regiment 140 had PCF boats moored on the mainland, at Koh Poulo Thmei, and at Koh Tang.<sup>595</sup> The Division Headquarters in Kampong Som was notified once the prisoners had been dealt with as ordered.<sup>596</sup> Documentary evidence shows that **Meas Muth** reported action

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Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412601; **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977860-00977861, A1-A5; **D54/109**, Written Record of Interview of Witness Sao Sam, 20 June 2014, ERN 01088478, A11-A12, ERN 01088479, A16; **D114/12**, Written Record of Interview of Witness Neak Yoeun, 11 October 2014, ERN 01053506-010153506, A17-A22; **D54/78**, Written Record of Interview of Witness Nop Hal, 8 April 2014, ERN 00986647-00986649, A12-A13, A18; **D2/9**, Written Record of Interview of Witness Say Born, 07 September 2010, ERN 00613024, A58-A61; **D2/10**, Written Record of Interview of Witness Say Born, 9 September 2010, ERN 00615366, A31; **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170524-01170525, A38-A39; **D1.3.34.28**, Report by Secret Telephone to Brother Division Commander, 15 September 1977, ERN 00233654; **D114/24**, Written Record of Interview of Witness Ou Dav, 11 September 2014, ERN 01074598-01074599, A94-A106; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076835, A160-A161; **D114/24**, Written Record of Interview of Witness Ou Dav, 11 September 2014, ERN 01074598, A104-A106. *See also* **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076877, A29-A30.

<sup>592</sup> **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977534, A25-A28; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412585.

<sup>593</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079237-01079238, A76-A80; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 010768315, A160-A161; **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373285, A63; **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977860-00977861, A1-A5; **D114/12**, Written Record of Interview of Witness Neak Yoeun, 11 October 2014, ERN 01053506-01053507, A16-A23, ERN 01170523, A26; **D114/19**, Written Record of Interview of Witness Mak Chhoeun, 22 October 2014, ERN 01040438, A20, ERN 01040440, A26-A27; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475852, A51-A55; **D54/109**, Written Record of Interview of Witness Sao Sam, 20 June 2014, ERN 01088478, A11-A12; **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977712, A1-A5; **D54/78**, Written Record of Interview of Witness Nop Hal, 8 April 2014, ERN 00986647-00986649, A12-A13, A18; **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613024, A58-A61. *See also* **D54/10**, Written Record of Interview of Witness Meu Ret, 22 June 2013, ERN 00977236, A25-A26; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076831, A141-A142; **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170523, A26-A27, ERN 01170525, A39; **D114/209**, Written Record of Interview of Witness Moeng Seng, 22 May 2016, ERN 01307848, A33; **D54/113**, Written Record of Interview of Witness Leang Bea, 28 July 2014, ERN 01134961, A48, ERN 01134963, A60-A64; **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373291, A36; **D114/24**, Written Record of Interview of Witness Ou Dav, 11 September 2014, ERN 01074597, A94-A97, ERN 0107602, A135-A138; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056662-01056663, A36-A40; **D114/132**, Written Record of Interview of Witness of Mao Ran, 6 October 2015, ERN 01172493, A95.

<sup>594</sup> **D54/112**, Written Record of Interview of Witness Long Chhea, 08 July 2014, ERN 01022562, A81-A90

<sup>595</sup> **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992450, A3; **D114/112**, Written Record of Interview of Witness Khoem Yat, 3 May 2014, ERN 01074510, A10, ERN 01074511

<sup>596</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079238,



taken against foreign vessels to CPK senior personnel, to the General Staff, and during division-level meetings.<sup>597</sup>

221. According to a former member of Regiment 140 with a detailed knowledge of the functioning of Division 164,<sup>598</sup> and several other witnesses,<sup>599</sup> once informed about the capture of prisoners, **Meas Muth** or his deputies would either order to kill the crew or to take them back to Kampong Som.<sup>600</sup> Boats carrying Vietnamese refugees were captured by RAK forces as they passed off Koh Rong, Koh Tang, and Koh Poulo Wai islands. These boats were either sunk and their crews killed at sea, brought back to the islands and executed, or brought back to Kampong Som.<sup>601</sup> Pak Sok recalls that, pursuant to orders from the battalion commander, small groups of Vietnamese had to be killed directly at sea, while groups larger than 20 people were to be taken to the islands or Kampong Som where they would be executed.<sup>602</sup> During a Division 164 meeting on 9 September 1976, it was reported that Son Sen,<sup>603</sup> after talking about invasion plans uncovered through the interrogations of “foreigners”, had ordered to bring people

<sup>597</sup> **D114/211**, Written Record of Interview of Witness Norng Sophang, ERN 01331603-01331608, A18-A35; **D1.3.27.18**, Minutes of Meeting of Secretaries and Logistics of Divisions and Independent Regiments, 19 September 1976, ERN 00195340-00195341; **D4.1.639**, Secret telephone, August 12 1977, ERN 00233972; **D1.3.34.64**, Confidential telephone message on 20/3/78: To Respected Brother 89 about Situation on the Sea, 20 March 1978, ERN 00233649; **D1.3.30.25**, Confidential Telephone Message on 1/4/78: Report about total number of arrested and fired Vietnamese, 1 April 1978, ERN 00143507.

<sup>598</sup> **D54/24**, Written Record of Interview of Witness Pak Sok, 17 October 2013, ERN 00977543, A15; **D54/23**, Written Record of Interview of Witness Pak Sok, ERN 00977528-00977529, A1-A2.

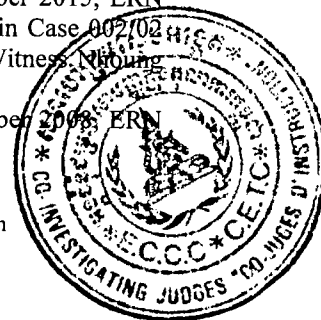
<sup>599</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079237, A76; **D54/116**, Written Record of Interview of Witness Neak Yoeun, ERN 01076877, A36-A40; **D114/24**, Written Record of Interview of Witness Ou Dav, 11 November 2014, ERN 01074598, A103-A106.

<sup>600</sup> **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977533-00977534, A25, ERN 00977535, A29; **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977712, A1-A5; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412601; **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076877, A36-A39; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079237, A77-A78.

<sup>601</sup> **D114/19**, Written Record of Interview of Witness Mak Chhoeun, 22 October 2014, ERN 01040438, A19; **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992454, A18-A19; **D54/23**, Written Record of Interview of Witness Pak Sok, ERN 00977536, A36-A39; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056667-01056668, A73-A85; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079236, A70-A73; **D54/83**, Written Record of Interview of Witness Hing Uch, 24 April 2014, ERN 01061115, A33; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055482, A129; **D54/113**, Written Record of Interview of Witness Leang Bea, 28 July 2014, ERN 01134962, A57; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050327, A142-A143; **D1.3.34.64**, Confidential telephone message, 20 March 1978, ERN 00233649.

<sup>602</sup> **D54/23**, Written Record of Interview of Witness Pak Sok, ERN 00977533, A25, ERN 00977534, A29; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412599-01412600, ERN 01412618; **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412823-01412826; **D2/6**, Written Record of Interview of Witness Phoung Chrong, 24 August 2010, ERN 00607261, A40-A44.

<sup>603</sup> **D4.1.400**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 19 November 2008, ERN 00242881.



captured on Koh Rong Samloem to the mainland for interrogation.<sup>604</sup> Some Vietnamese prisoners were indeed interrogated and their confessions broadcast, with the help of a Khmer interpreter, on national radio before their execution.<sup>605</sup>

222. Prisoners who were taken to Kampong Som after their capture were disembarked at either Ou Chheu Teal Beach or Ream, where soldiers from Division 164, including at times **Meas Muth's** deputies, were waiting with trucks.<sup>606</sup> Several witnesses state that Regiment 62 soldiers executed Thai and Vietnamese captives at various locations, including durian and coconut plantations in the area.<sup>607</sup> There is insufficient evidence, however, that they were sent to Toek Sap: one witness saw Thai fishermen being walked towards Toek Sap, however he only speculated that they were killed there.<sup>608</sup> A woman living about 60 metres from **Meas Muth's** house in Kampong Som recalls an episode, in 1978, when an old Vietnamese woman and two children captured at sea were killed by soldiers, whom she believes to have been either **Meas Muth's**

<sup>604</sup> **D1.3.8.4**, Minutes of the meeting of comrades 164: Report on vessel training, 9 September 1976, ERN 00657355-00657356.

<sup>605</sup> **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977535, A29; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412586, ERN 01412619; **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412838; **D59/1/1.12**, DC-Cam Statement of Nob (Nop) Hal, 28 June 2007, ERN 00968398; **D1.3.26.5**, BBC-SWB 3 February 1978 International Media Report on the broadcast of the confession of a Vietnamese sailor, 3 February 1978, ERN 00008894-00008896.

<sup>606</sup> **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607261, A40-A44; **D2/17**, Written Record of Interview of Witness In Saroeun, 12 November 2010, ERN 00628144-00628145, A7-A18, A21-A23, ERN 00628146-00628147, A27-A43; **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992452, A8, ERN 00992454, A15-A17; **D114/24**, Written Record of Interview of Witness Ou Dav, 11 September 2014, ERN 01074599-01074600, 01074604, A110-A121, A153; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN00977281-00977283, A34-A48; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977533, A25, ERN 00977536, A35; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412589-01412592; **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412821; **D54/98**, Written Record of Interview of Witness Heang Ret (Reth), 26 May 2014, ERN 01076854, A68-A69; **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076873-01076876, A15-A31; **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044937, A102-A103; **D54/109**, Written Record of Interview of Witness Sao Sam, 20 June 2014, ERN 01088478-01088479, A15; **D54/120**, Written Record of Interview of Witness Prom Kem, 18 August 2014, ERN 01151112-01151113, A4-A6.

<sup>607</sup> **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607261, A40-A43. **D2/17**, Written Record of Interview of Witness In Saroeun, 12 November 2010, ERN 00628144, A7-A13, ERN 00628147, A46; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412590, lines 23-25, ERN 01412591, lines 1-25, ERN 01412592, lines 1-24; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474, A29.

<sup>608</sup> **D114/2**, Written Record of Interview of Witness Lak Saphan, ERN 01046902-01046905, A20.



messengers or members of a special unit, in a location about 50 to 100 metres from **Meas Muth**'s residence.<sup>609</sup>

223. Some of the Vietnamese and Thai prisoners taken to Kampong Som were not executed on site but transported to S-21, where they were killed.<sup>610</sup> While certain Vietnamese, who were arbitrarily designated as spies by S-21 personnel, were interrogated, families who were designated as 'fishermen' were not interrogated but killed shortly after their arrival at S-21.<sup>611</sup>
224. One witness claims that in 1977 Son Sen advised the Navy that when Vietnamese boats were stopped, if the people on board were refugees travelling to Thailand, they should be released and allowed to continue on their way.<sup>612</sup> The same witness also believes that Vietnamese fishermen were not considered enemies, a claim which is belied by the vast majority of the evidence.<sup>613</sup> A former communication officer corroborates this account, stating that he recalls an order from Son Sen to **Meas Muth** that unarmed captured Vietnamese should be released.<sup>614</sup> Pak Sok, however, who was first stationed on Koh Poulo Wai with Regiment 62 of Division 164 and later joined the Navy (Regiment 140), never heard of this, and states that the only instructions he heard was to arrest the Vietnamese.<sup>615</sup> The evidence on the fate of captured Vietnamese does not support the conclusion that Son Sen's order was actually issued, or even if it was issued, that it was implemented.

<sup>609</sup> **D54/71**, Written Record of Interview of Witness Mut Mao, 12 March 2014, ERN 00983632-00983633, A38-A46, ERN 00983634-00983636, A52-A65.

<sup>610</sup> **D114/41**, Written Record of Interview of Witness Suos Thy, ERN 01079247-01079249, A4-A12; **D114/43**, Written Record of Interview of Witness Suos Thy, 6 February 2015, ERN 01079270-01079272, A12-A23; **D114/92**, Written Record of Interview of Witness Him Huy (Houy), 20 July 2015, ERN 01134910-01134912, A30-A31, A35-A39; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055482, A129, ERN 01055483-01055484, A135-A137; **D4.1.5**, DC-Cam Media Article entitled: "List of Foreigners Smashed at S-21", 25 April 2011, ERN 00087937-00087944.

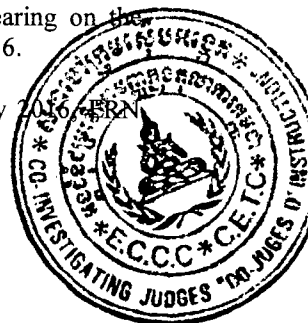
<sup>611</sup> **D114/43**, Written Record of Interview of Witness Suos Thy, 6 February 2015, ERN 01079270-01079272, A21-A23.

<sup>612</sup> **D54/98**, Written Record of Interview of Witness Heang Ret (Reth), 26 May 2014, ERN 01076855-01076855, A75.

<sup>613</sup> **D54/98**, Written Record of Interview of Witness Heang Ret (Reth), 26 May 2014, ERN 01076854, A70; **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044926-01044927, A41-A42; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977533-00977535, A31-A32; **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977837-00977838, A23; **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992456, A23; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055473, A75, ERN 01055474, A83, ERN 01055478-01055480, A109-A110, A115; **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184849, A58-59; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412612-01412613, ERN 01412616.

<sup>614</sup> **D114/211**, Written Record of Interview of Witness Norng Sophang, ERN 01331609, A39.

<sup>615</sup> **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412833, ERN 01412837, lines 3-25, 01412838, lines 1-24.





#### 5.4.3 Joint operations of Divisions 1 and 164 in Koh Kong

225. Foreign vessels were not only apprehended off Kampong Som and its islands, the area under the control of Division 164, but also off the coast of Koh Kong,<sup>616</sup> with Division 164 coordinating with Division 1's units in Koh Kong.<sup>617</sup>
226. Division 164 had two PCF boats stationed in Koh Kong to intercept foreign boats under the command of Sim. When Division 1 personnel spotted foreign vessels, they informed Sim, who in turn contacted **Meas Muth** for instructions. Division 1 had to rely on Division 164 to intercept foreign vessels because it was only Division 164 that had ships capable of intercepting foreign vessels.<sup>618</sup> After a boat was captured, Sim again informed the Division.<sup>619</sup>
227. Ing Chhon, who was one of Sim's subordinates in Koh Kong,<sup>620</sup> states that Sim had no authority to take decisions with respect to captured boats, and had to follow orders from the Division.<sup>621</sup> Pursuant to orders disseminated by Sim, when they approached Thai fishing boats they shot at the crew to prompt them to jump in the water. Those who did not jump had to be shot and killed. The witness states that his unit never captured any Vietnamese or Thai people alive, except for 23 Vietnamese refugees who were sent to Kampong Som.<sup>622</sup> Contemporary documents show that on 15 September 1977 Sim reported to Son Sen and **Meas Muth** the capture of two boats off the coast of Koh

<sup>616</sup> See **D1.3.34.66**, DK Military Telegram by Soeung entitled Telegram 1, 31 March 1978, ERN 00823692; **D1.3.12.18**, Report from Meas Muth to Son Sen regarding situation on Thai border, 29 May 1977, ERN 00233992.

<sup>617</sup> **D54/53**, Written Record of Interview of Witness Meas Voeun, 17 January 2014, ERN 00978521-00978527, A1-A32; **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977861, A5, ERN 00977862, A12; **D234/2.1.95**, Transcript of Hearing on the Substance in Case 002/02 [Meas Voeun], 2 February 2006, ERN 01394414-01394416; **D1.3.34.23**, Telegram 28 on 12/8/77 about enemy jet airplane, 12 August 1977, ERN 00233655.

<sup>618</sup> **D54/50**, Written Record of Interview of Witness Meas Voeun, 14 January 2014, ERN 00978402, A19-A20; **D54/51**, Written Record of Interview of Witness Meas Voeun, 15 January 2015, ERN 00978410-00978412, A17-A20; **D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978513, A17, ERN 00978517, A33-A35; **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977861, A5, ERN 00977862-00977863, A11-A14. See also **D4.1.639**, Secret telephone, August 12 1977, ERN 00233972.

<sup>619</sup> **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977865, A21; **D1.3.34.28**, Report by secret telephone to Brother Division Commander, ERN 00233654, 15 September 1977; **D2/10**, Written Record of Interview of Witness Say Born, 9 September 2010, ERN 00615369-00615370, A47-A54.

<sup>620</sup> **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977861, A5, ERN 00977864, A17.

<sup>621</sup> **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977861, A5, ERN 00977865, A21-A23.

<sup>622</sup> **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977861, 00977863-00977865, A15-A19, ERN 00977867, A28-A30, A32. See also **D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978514-00978515, A18-A25; **D54/53**, Written Record of Interview of Witness Meas Voeun, 17 January 2014, ERN 00978523, A11-A14.



Kong. Sim specified that some of the boat's occupants had jumped into the water, while others had been killed "by our brothers".<sup>623</sup> In about one year of service in Koh Kong, Ing Chhon estimates that his unit captured "less than 100" ships.<sup>624</sup> Division 1's Deputy Commander, Meas Voeun,<sup>625</sup> recalls having captured 50 or 60 Thai fishing boats, but states that almost all the fishermen jumped in the water as they were approached by RAK units.<sup>626</sup>

228. During these joint operations, personnel from the two divisions reported to their respective commanders, namely **Meas Muth** for Division 164 and Soeun for Division 1. While Soeun and **Meas Muth** held the same rank of Division Commander, **Meas Muth**'s area of responsibility was not confined to a zone, but included the entire territorial waters of DK.<sup>627</sup> **Meas Muth**'s Navy had thus the right to conduct operations in the area of responsibility of Division 1.<sup>628</sup>
229. Prisoners captured at sea in Koh Kong were brought to Kampong Som, Koh Ta Kiev, or Ream.<sup>629</sup> Meas Voeun, recalls one episode when, after having informed the Navy of the capture of about 10 Thai fishermen, Division 1 personnel brought the prisoners to Kampong Som, where soldiers from Division 1 took custody of the prisoners. Asked why on that occasion Division 1 personnel operated in Division 164's area of responsibility, the witness could not provide an explanation.<sup>630</sup>
230. Documentary evidence further illustrates **Meas Muth**'s involvement in and responsibility for naval operations off the coast of Koh Kong:
- i. On 13 August 1976, **Meas Muth** reported to Son Sen that Thai fishing boats with military escorts were sighted 16 kilometres from the coast of Koh Kong. He also

<sup>623</sup> **D54/53**, Written Record of Interview of Witness Meas Voeun, 17 January 2014, ERN 00978522, A9; **D1.3.34.28**, Report by secret telephone to Brother Division Commander, 15 September 1977, ERN 00233654.

<sup>624</sup> **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977861, A5, ERN 00977865, A20.

<sup>625</sup> **D98/3.1.178**, Transcript of Hearing on the Substance in Case 002 [Meas Voeun], 4 October 2012, ERN 00853292, lines 1-13.

<sup>626</sup> **D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978514-00978515, A18-A25; **D54/53**, Written Record of Interview of Witness Meas Voeun, 17 January 2014, ERN 00978523, A11-A14.

<sup>627</sup> **D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978510-00978512, A2-A12.

<sup>628</sup> **D54/51**, Written Record of Interview of Witness Meas Voeun, 15 January 2015, ERN 00978413, A23.

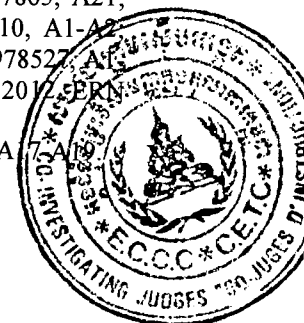
<sup>629</sup> **D54/34**, Written Record of Interview of Witness Ing Chhon, 11 November 2013, ERN 00977865, A21;

**D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978510, A1-A2;

**D54/53**, Written Record of Interview of Witness Meas Voeun, 17 January 2014, ERN 00978521-00978522, A1-A2;

**D98/3.1.178**, Transcript of Hearing on the Substance in Case 002 [Meas Voeun], 4 October 2012, ERN 00853297, lines 8-21.

<sup>630</sup> **D54/53**, Written Record of Interview of Witness Meas Voeun, 17 January 2014, ERN 00978524, A1-A2.



- reported an armed clash with a Thai fishing boat which took place on 12 August 1976, which ended with the capture of the boat after its occupants had jumped in the sea.<sup>631</sup>
- ii. Between 15 July and 18 August 1976, Division 164 reported clashes with armed Thai fishing vessels in Koh Kong.<sup>632</sup>
  - iii. On 9 September 1976, during a meeting of Division 164, it was reported that on 6 September 1976 10 Thai fishing boats had been sighted near Koh Kong. Division 164's personnel captured eight fishermen, and reported that another seven had jumped in the sea.<sup>633</sup>
  - iv. On 19 September 1976, during a meeting of secretaries and logistic chiefs of all RAK divisions and regiments, **Meas Muth** reported an increase in the number of Thai fishing boats entering DK waters, especially in the area between Koh Rong and Koh Kong. The convoys numbered up to 100 or 150 boats. He also reported the capture of a 50-horsepower boat on 11 September 1976.<sup>634</sup>
  - v. On 1 April 1978, **Meas Muth** reported to Son Sen and Nuon Chea problems encountered in the exchange of Thai prisoners captured in the Koh Kong area by naval units of Division 1.<sup>635</sup>

#### 5.4.4 *Executions on the islands of DK*

231. Foreign captives were not only taken back to the mainland after capture, but also brought to the islands off the coast of Kampong Som, where they were either killed, detained before being transported elsewhere, or exchanged. A former Division 164 soldier recalls that there was a shift over time in the procedure followed upon capture of a foreign vessel. At first, captured foreigners were generally brought back to the mainland, where they were executed at the Durian Plantation Killing Site and other

<sup>631</sup> **D1.3.8.3**, Minutes of Meeting of the Military Work in Kampong Som, 3 August 1976, ERN 00234012; **D1.3.34.10**, Telegram No 44, sent to respectable Brother 89 for his knowledge, about the situation in August 1976, ERN 00233647.

<sup>632</sup> **D1.3.12.7**, Summary Report from 15 July-31 August 1976, ERN 00233963.

<sup>633</sup> **D1.3.8.4**, Minutes of the meeting of comrades 164: Report on vessel training, 9 September 1976, ERN 00657355.

<sup>634</sup> **D1.3.27.18**, Minutes of the Meeting of Secretaries and Logistics of Divisions and Independent Regiments, 19 September 1976, ERN 00195340-00195341.

<sup>635</sup> **D54/53**, Written Record of Interview of Witness Meas Voeun, 17 January 2014, ERN 00978525, **D1.3.30.25**, DK Military Report from Division 164, Political Section, "Secret Telephone dated 1 April 1978", ERN 00183357.



locations.<sup>636</sup> This practice however changed over time, with the Division ordering the naval units to save petrol by taking the prisoners' valuables and killing them at sea or on the islands, where their bodies were to be used to fertilise coconut trees.<sup>637</sup>

#### 5.4.4.1 *Koh Tang*

232. Some Thai and Vietnamese captured at sea, including women and children, were taken to Koh Tang, where they were executed by soldiers of Regiment 62 of Division 164, who were headquartered on the island.<sup>638</sup> After fast patrol boats intercepted and captured fishing boats, Division Headquarters in Kampong Som were informed.<sup>639</sup>

**Meas Muth**, in turn, informed the General Staff about the capture of foreign boats near Koh Tang.<sup>640</sup>

233. Two witnesses state that they did not see Thai and Vietnamese prisoners on Koh Tang.<sup>641</sup> The brief period they spent on the island, or the fact that they only stayed in specific locations without seeing the entirety of the island, are relevant factors in considering this evidence *vis-à-vis* that of the witnesses who testified otherwise. Another witness allegedly never saw the capture of foreign vessels or prisoners on Koh

<sup>636</sup> **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607261, A40-A43. **D2/17**, Written Record of Interview of Witness In Saroeun, 12 November 2010, ERN 00628144, A7-A13, ERN 00628147, A46; **D54/24.1**, DC-Cam Statement of Pak Sok, 25 April 2007, ERN 00978579, *as confirmed in D114/297.1.20*, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412590, lines 23-25, ERN 01412591, lines 1-25, ERN 01412592, lines 1-24; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474, A29; **D114/2**, Written Record of Interview of Witness Lak Saphan, ERN 01046902-01046903, A7, ERN 01046905, A20. *See also Durian Plantation Killing Site*, para. 265.

<sup>637</sup> **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373285, A63; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001476, A41-A44.

<sup>638</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001475-01001476, A32-A44; **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373284-01373285, A57-A63.; **D54/78**, Written Record of Interview of Witness Nop Hal, 8 April 2014, ERN 00986647, A10; **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170524, A36, ERN 01170525, A44; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170542, A164; **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044923-01044924, A25-A26, ERN 01044934-01044935, A80-A87; **D114/57**, Written Record of Interview of Witness Som Saom, 19 March 2015, ERN 01089938-01089939, A11-A22, ERN 01089939, A26-A28; **D114/132**, Written Record of Interview of Witness Mao Ran, 6 October 2015, ERN 01172493-01172495, A91-A110. *See also D1.3.8.3*, Minutes of Meeting of the Military Work in Kampong Som, 3 August 1976, ERN 00234012.

<sup>639</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170524-01170524, A38-A39.

<sup>640</sup> **D1.3.8.4**, Minutes of meeting of Comrades 164, 9 September 1976, ERN 0657354; **D1.3.8.3**, Minutes of Meeting of the Military work in Kampong Som, 3 August 1976, ERN 00234012; **D1.3.34.64**, Confidential Telephone Message on 20 March 1978, ERN 00233649; **D1.3.27.18**, Minutes of Meeting of Secretaries and Logistics of Divisions and Independent Regiments, 19 September 1976, ERN 00195340-00195341.

<sup>641</sup> **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168406, A57-A58; **D114/131**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168409, A75; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128187, A31-A32; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168313, A20, ERN 01168321, A66.



Tang but had heard fellow soldiers on the island discuss the capture of foreigners; his own unit was not involved.<sup>642</sup> A former potato farmer on the island denied that troops on the island arrested foreigners. He confirms, however, that if foreign boats were sighted, military personnel on the island would request the intervention of fast boats stationed in Ream.<sup>643</sup>

234. Koem Men, who was a member of the battalion command on Koh Tang, was aware that the Navy had fired upon some foreign fishing vessels and had captured and shot Thai fishermen who were then taken to Kampong Som.<sup>644</sup> However, he claims to have never seen any foreigners on the island.<sup>645</sup> In assessing his credibility, his position in the battalion command is especially relevant, as he would have been involved, or at least have direct knowledge of, any execution that was carried out on the island. While the witness was offered assurances that he would not be prosecuted,<sup>646</sup> the witness may have still wanted not to tarnish his reputation and that of the leaders of DK, for whom he still feels strong admiration.<sup>647</sup>
235. Considering the evidence as a whole, the statements of those witnesses who are not aware of arrests and executions at Koh Tang are either not credible or unreliable, as they are contradicted by the direct observations of other witnesses. Im Sokhan, for instance, personally participated in the capture of Thai fishermen whom he subsequently transported to Koh Tang and left in the custody of Battalion 420's soldiers.<sup>648</sup> Ek Ny personally saw arrested Vietnamese and Thai brought to Koh Tang,<sup>649</sup> and states that on Koh Tang alone there were about 250 persons buried under coconut trees.<sup>650</sup>

<sup>642</sup> **D114/122**, Written Record of Interview of Witness Nob Phan, 12 September 2015, ERN 01168331, A26, ERN 01168332, A29, ERN 01168333-01168334, A37-A44.

<sup>643</sup> **D114/109**, Written Record of Interview of Witness Prum Sambath, 26 August 2015, ERN 01170500, A80-A88.

<sup>644</sup> **D114/113**, Written Record of Interview of Witness Koem Men, 13 September 2015, ERN 01170541, A155-A156.

<sup>645</sup> **D114/113**, Written Record of Interview of Witness Koem Men, 13 September 2015, ERN 01170543, A186.

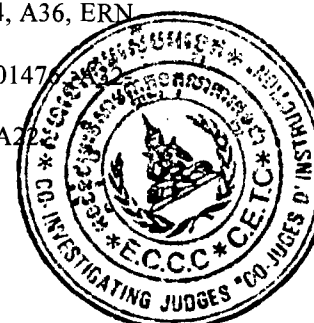
<sup>646</sup> **D114/113**, Written Record of Interview of Witness Koem Men, 13 September 2015, ERN 01170550-01170551, A261.

<sup>647</sup> **D114/113**, Written Record of Interview of Witness Koem Men, 13 September 2015, ERN 01170548, A243.

<sup>648</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170524, A36, ERN 01170525, A44.

<sup>649</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001475-01001476, A44.

<sup>650</sup> **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373290, A22.



5.4.4.2 Koh Rong Islands (Koh Rong Thom and Koh Rong Samloem)

236. The Koh Rong Islands are two islands south of the Kampong Som coast.<sup>651</sup> Koh Rong, also called Koh Rong Thum/Thom and Koh Rong Krao/Krau,<sup>652</sup> is the larger of the two<sup>653</sup> and to the north of Koh Rong Samloem<sup>654</sup> (also called Koh Rong Phleung Fa and Koh Rong Knong).<sup>655</sup> A witness has, on one occasion, referred to Koh Rong Samloem simply as Koh Rong, suggesting that other witnesses may have done the same in the course of the investigation. Upon a careful review of the evidence, however, this does not seem to have been the case.<sup>656</sup> Both islands were under the command of Division 164 with soldiers from Regiment 61 stationed in Koh Rong<sup>657</sup> and Battalion 386 personnel stationed in Koh Rong Samloem. Regiment 140 (i.e. the Navy), albeit headquartered at Ou Chheu Teal Beach, had patrol boats moored at the Koh Rong Samloem jetty.<sup>658</sup> The islands were also used as training grounds for members of Regiment 140.<sup>659</sup>

237. Moul Chhin, a former soldier who spent one year on Koh Rong Samloem in 1976,<sup>660</sup> states that his unit, Battalion 386,<sup>661</sup> was tasked with watching the waters around Koh

<sup>651</sup> **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373281- 01373282, A39; **D54/27.1**, Map of Islands, 22 October 2013, ERN 00955554.

<sup>652</sup> **D54/112**, Written Record of Interview of Witness Long Chhea, 8 July 2014, ERN 01022562, A81; **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373279, A21; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076822, A78.

<sup>653</sup> **D114/57**, Written Record of Interview of Witness Soam Som, 19 March 2015, ERN 01089938, A7; **D54/27.1**, Map of Islands, 22 October 2013, ERN 00955554.

<sup>654</sup> **D54/27.1**, Map of Islands, 22 October 2013, ERN 00955554.

<sup>655</sup> **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373281, A39; **D54/31**, Written Record of Interview of Witness Ny Soem, 7 November 2013, ERN 00974913, A3. *See also* **D114/95**, Written Record of Interview of Witness Sroeung Yoem, 27 July 2015, ERN 01137195, A84; **D114/54**, Site Identification Report, 6 March 2015, ERN 01074114-01074115.

<sup>656</sup> **D54/112**, Written Record of Interview of Witness Long Chhea, 8 July 2014, ERN 01022561-01022562, A80-A81.

<sup>657</sup> **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055476, A97; **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977713, A6; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170542, A163.

<sup>658</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079235, A66-A67; **D114/54**, Site Identification Report, 6 March 2015, ERN 01074115-01074116; **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076819, A60-A61; **D54/112**, Written Record of Interview of Witness Long Chhea, 8 July 2014, ERN 01022559, A54-A55.

<sup>659</sup> **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977531, A14; **D54/99**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076285, A33; **D54/112**, Written Record of Interview of Witness Long Chhea, 8 July 2014, ERN 01022559, A51; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251776, A88, A93.

<sup>660</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056672, A110-A111; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079235, A66-A67.

<sup>661</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056660, A22-A23; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079235, A67.



Rong and Koh Rong Samloem for enemy boats entering DK's territorial waters.<sup>662</sup> He saw mainly Thai fishing boats. When he or his fellow servicemen sighted a boat, they informed the headquarters on the mainland, which dispatched fast boats to intercept the vessels. Sometimes they captured three or four boats in a day, with boats transporting between six to 30 people, depending on their size; fishermen on larger boats tended to have weapons. Boats that were not sunk on the spot were brought back to Koh Rong Samloem. The fishermen were then taken to Battalion 386's Headquarters, in the northern part of Koh Rong Samloem,<sup>663</sup> where they were executed by a special unit of the Battalion.<sup>664</sup> The witness himself saw 10 to 15 Thai fishermen killed every two or three days.<sup>665</sup> On other occasions, captured fishermen were taken to Kampong Som and killed there.<sup>666</sup> According to him, in addition to the Thai, hundreds of Vietnamese refugees who attempted to escape to Thailand were routinely killed, either by sinking their boats or by execution by soldiers stationed on Koh Rong Samloem. The victims, who wore civilian clothes, included children, women, and the elderly.<sup>667</sup> The witness never saw any Vietnamese or Thai prisoners being released.<sup>668</sup>

238. Moul Chhin's account is corroborated by other sources. In 1975, Sieng Koy was sent to the mainland in Kampong Som and assigned to a boat that supplied troops with fish and other necessities.<sup>669</sup> The witness personally saw the arrest of Thai people at sea who were then detained by Regiment 140 in Koh Rong Samloem, where he knows they were sometimes exchanged for goods.<sup>670</sup> The witness heard, but did not personally observe, that fishermen were also drowned or clubbed to death on Koh Rong Samloem,

<sup>662</sup> D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056662, A35-A37.

<sup>663</sup> D114/54, Site Identification Report, 6 March 2015, ERN 01074116, ERN 01074128-01074132.

<sup>664</sup> D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056661, A22, ERN 01056662, A26, ERN 01056662-01056664, A36-A52; D114/40, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079235, A65, A67, A68, ERN 01079230-01079241, A88-A94.

<sup>665</sup> D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056665-01056666, A60-A65.

<sup>666</sup> D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056665, A56; D114/40, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079237, A76.

<sup>667</sup> D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056667, A73-A78, ERN 01056668, A84-A85.

<sup>668</sup> D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056662, A36; D114/40, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079239, A86-A87.

<sup>669</sup> D114/98, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184842, A9, ERN 01184843, A13-A16.

<sup>670</sup> D114/98, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184850-01184851, A67, ERN 01184852, A71.



and their bodies buried under coconut trees.<sup>671</sup> When visiting Koh Rong Samloem after the end of DK, the witness saw graves near the coconut trees, ropes and clothes lying on the ground, and two decomposing bodies with their arms tied behind their backs and heads covered with plastic bags. From their clothes, the witness concluded that they were Thai fishermen.<sup>672</sup> He also saw hundreds of graves on the northeast portion of the island.<sup>673</sup> Another witness recalls that in late 1976 a Vietnamese boat was captured and escorted to Koh Rong, kept there overnight and towed to Kampong Som the next day. The witness later asked the messenger of the Battalion Commander about the passengers. The messenger told him that they were all executed on the island. He also added that the Division told the Battalion Commander “[y]ou do whatever you want. Do not keep”; the message came from **Meas Muth** and meant that the prisoners were not to be sent to Kampong Som but were to be executed on the island.<sup>674</sup>

239. Documentary evidence shows that **Meas Muth** was kept informed of the sightings of foreign vessels near Koh Rong,<sup>675</sup> and that he reported to the General Staff about action against Thai boats and the capture of Thai vessels subsequently brought to Koh Rong.<sup>676</sup> **Meas Muth** also personally travelled to the Koh Rong Islands to ensure the efficient implementation of CPK’s decisions.<sup>677</sup>
240. Two witnesses who served on Koh Rong said they were neither aware of the capture of foreign vessels nor prisoners being brought to Koh Rong.<sup>678</sup> One witness’s unit was the first to go to the island in 1975 but the witness does not recall how long he stayed there before he was sent to another island.<sup>679</sup> He notes that while on the island, his unit did not have a boat to use.<sup>680</sup> He heard about the seizure of several Thai vessels but states that the prisoners were sent to the Division soldiers stationed in Koh Ta Kiev, near

<sup>671</sup> **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184850, A66, ERN 01184851, A71-A73, ERN 01184853, A88.

<sup>672</sup> **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184851, A73-A79, ERN 01184853, A88; **D114/119**, Written Record of Interview of Witness Sieng Koy, 08 September 2015, ERN 01168283, A6.

<sup>673</sup> **D114/98**, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184852, A80-A83.

<sup>674</sup> **D59/2/3.13a**, DC-Cam Statement of Neak Yoeun, ERN 01421486, as confirmed in **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076877-01076878, A36-A40, A42.

<sup>675</sup> **D1.3.34.14**, Telegram 15 from Comrade Dim to Brother Mut, 06 October 1976, ERN 00233661.

<sup>676</sup> **D1.3.12.2**, Report to Brother 89, 6 February (year not provided), ERN 00233991.

<sup>677</sup> **D114/19.1**, Report to Brother 89, 5 January 1976, ERN 01513919.

<sup>678</sup> **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148806-01148807, A112-A115; **D114/109**, Written Record of Interview of Witness Prum Sambath, 26 August 2015, ERN 01170499, A53-A59.

<sup>679</sup> **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148797, 01148804, A39, A93-A94

<sup>680</sup> **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148806,





Ream.<sup>681</sup> The other witness was sent to Koh Rong in 1975 and was there for three to four months.<sup>682</sup> He was then sent to Koh Tang.<sup>683</sup> He was aware of the capture of Thai and Vietnamese vessels but states that the prisoners were sent to the “upper level” in Kampong Som.<sup>684</sup>

241. A third witness, who spent six months on Koh Rong Samloem in 1976, does not recall seeing any Thai fishermen on the island,<sup>685</sup> but was aware of the capture of fishing vessels<sup>686</sup> and was himself involved in the capture of a Thai fishing boat in which the fishermen were brought to Koh Tang;<sup>687</sup> he was also familiar with the execution of fishermen at sea,<sup>688</sup> the seizure of foreign vessels<sup>689</sup> and the methods to accomplish this task.<sup>690</sup> He served on the islands and members of his unit would assist the Navy with the capture of foreign vessels.<sup>691</sup> He was stationed on the southern part of the island,<sup>692</sup> and it is possible that the site used for executions was exclusively that on the northern part of the island, near Battalion 386’s Headquarters and the jetty where captured boats were docked.<sup>693</sup> Considering the evidence as a whole, and especially that of Moul Chhin, whose detailed accounts on executions have been tested during a visit on the island,<sup>694</sup> there are strong reasons to believe that hundreds of Thai and Vietnamese

<sup>681</sup> Alternative spelling: Koh Ta Keav; **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148807- 01148809, A118-A121, A124-A131.

<sup>682</sup> **D114/109**, Written Record of Interview of Witness Prum Sambath, 26 August 2015, ERN 01170498, A41-A42.

<sup>683</sup> **D114/109**, Written Record of Interview of Witness Prum Sambath, 26 August 2015, ERN 01170499, A66.

<sup>684</sup> **D114/109**, Written Record of Interview of Witness Prum Sambath, 26 August 2015, ERN 01170499, A53-A57.

<sup>685</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170519, A2, ERN 01170521, A15, ERN 01170526, A54.

<sup>686</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170522, 01170524, A17-A18, A36.

<sup>687</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170524, 01170525, A36-A37, A44.

<sup>688</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170525-01170526, A46-A48, A55.

<sup>689</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170524-01170525, A36, A39, A44, A48.

<sup>690</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170522-01070526, A17, A26-A28, A34, A38-A39, A49-A51.

<sup>691</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170522-01070524, A17-A36.

<sup>692</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170524, A33.

<sup>693</sup> **D114/54**, Site Identification Report, 6 March 2015, ERN 01074116, 01074128-01074132; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079235, A67-A68, ERN 01079237, ERN 01079239, A84; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2015, ERN 01056662-01056664, A36-A49.

<sup>694</sup> **D114/54**, Site Identification Report, 6 March 2015, ERN 01074116, ERN 01074128-01074132.



civilians were killed on Koh Rong Samloem and in the waters surrounding the island.<sup>695</sup>

#### 5.4.4.3 Koh Poulo Wai

242. Regiment 62 of Division 164 was stationed on the islands of Koh Poulo Wai Chas and Koh Poulo Wai Thmei, hereinafter referred to as Koh Poulo Wai as witnesses generally do not specify which of the two islands they are talking about during their testimonies.<sup>696</sup> A former Regiment 62 soldier stationed on Koh Poulo Wai for about two months in 1975 states that they dug trenches and guarded the island because, during that period, the Vietnamese used to “sneak” into Cambodian islands. He states that if the Vietnamese came armed, they had been ordered to shoot them, if they were unarmed, they had to arrest them. However, during the two months he spent there, he did not see any foreigners.<sup>697</sup>

243. Regiment 62 only had small wooden boats at their disposal. Regiment 140 had PCF boats stationed on standby on the island, ready to intercept foreign vessels if ordered to do so by the Division. Regiment 62 coordinated the handling of the prisoners with Regiment 140 after the seizure of boats.<sup>698</sup> Koh Poulo Wai was along the route used by Vietnamese refugees.<sup>699</sup> Thai fishermen and Vietnamese refugees, including women and children, captured off Koh Poulo Wai were either taken to Kampong Som,<sup>700</sup> or executed by soldiers of Regiment 62.<sup>701</sup> Upon capture, Vietnamese refugees were robbed of their gold and valuables.<sup>702</sup>

<sup>695</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056662-01056668, A36-A85.

<sup>696</sup> **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055476, A97; **D54/108**, Written Record of Interview of Witness Sao Sam, 19 June 2014, ERN 01089956-01089957, A14.

<sup>697</sup> **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170531, A20, ERN 01170532, A35-A38, ERN 01170533, A46-A51.

<sup>698</sup> **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992449-00992450, A3, ERN 00992452, A8.

<sup>699</sup> **D114/19**, Written Record of Interview of Witness, Mak Chhoeun, 22 October 2014, ERN 01040438, A19; **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992453, A11. *See also* **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170523, A31.

<sup>700</sup> **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992449-00992451, A3-A4, A7.

<sup>701</sup> **D114/126**, Written Record of Interview of Witness Ou Kim, 19 September 2015, ERN 01166084, A7-A9, ERN 01166089-01166090, A31-A39, ERN 01166091, A43-A45; **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166097, A4, ERN 01166099, A13; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056675-01056677, A136-A146; **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013, ERN 00977319-00977320, A41-A49; **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977713-00977714, A7, A8, ERN 00977716, A20; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055476, A97.



244. Ou Kim, a member of Battalion 621 of Regiment 62 stationed in Koh Poulo Wai,<sup>703</sup> observed the capture of numerous Thai fishing vessels and Vietnamese refugee boats. The witness estimates that Thai fishing boats usually carried a minimum of 20 fishermen, while Vietnamese refugee boats carried about 30, although according to the witness the numbers could be higher, with boats carrying up to 50 or 70 people.<sup>704</sup> Most of the Vietnamese refugees were women and children, with men mainly being crew members. The witness does not recall weapons being found on refugee boats, but recalls some Thai vessels being armed with a single-barrel weapon.<sup>705</sup> The prisoners were searched at sea and then taken to the island.<sup>706</sup> The men's hands were tied while women and children were not restrained.<sup>707</sup> The witness learned from his company members that prisoners were placed in a house near the beach and held for two to three days before being clubbed to death. Vietnamese women often carried gold, which was confiscated before their execution. The witness claims that the executions were common knowledge among the soldiers on the island.<sup>708</sup> He estimates, conservatively, that 300-400 persons were executed and buried on Koh Poulo Wai. However, he also recalls instances when people were given a boat and let go, although he does not recall their nationality.<sup>709</sup>
245. Another witness, who travelled frequently to Koh Poulo Wai to deliver supplies and occasionally stayed there overnight when storms prevented him from leaving, testified that he saw the capture of boats carrying Thai and Vietnamese civilians on a daily basis when he was on the island. Naval units took the prisoners to the "Division General Staff" on the island, and all prisoners were killed. Small boats were sunk, while larger boats were kept to be used by the RAK. The victims were civilians and included

01055482, A121-A130; **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013, ERN 00977319-00977320, A41-A50.

<sup>702</sup> **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992453, A12-A13.

<sup>703</sup> **D114/126**, Written Record of Interview of Witness Ou Kim, 19 September 2015, ERN 01166084, A7-A9.

<sup>704</sup> **D114/126**, Written Record of Interview of Witness Ou Kim, 19 September 2015, ERN 01166086, A17, ERN 01166088, A28, ERN 01166089-01166092, A31-A42; **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166097, A3.

<sup>705</sup> **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166097, A4-A6.

<sup>706</sup> **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166102, A26.

<sup>707</sup> **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166097-01166098, A7.

<sup>708</sup> **D220/1.2.1**, DC-Cam Statement of Ou Kim, 3 March 2015, ERN 01375003-01375004, as confirmed in **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166098, A11, ERN 01166103-01166105, A25-A41.

<sup>709</sup> **D220/1.2.1**, DC-Cam Statement of Ou Kim, 3 March 2015, ERN 01375006-01375007, as confirmed in **D114/126**, Written Record of Interview of Witness Ou Kim, 19 September 2015, ERN 01166091-01166092, A17, ERN 01166088, A28, ERN 01166089-01166092, A31-A42; **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166097-01166098, A7, ERN 01166103-01166105, A25-A41, ERN 01166104, A41-A43.



women, children, and the elderly. The victims were all killed and buried on the island. Nobody was spared.<sup>710</sup> Other witnesses' evidence corroborates this account.<sup>711</sup>

246. A former member of Regiment 62 stationed on Koh Poulo Wai Chas recalls that ships captured off the island's coast were directly towed to Kampong Som, not to the island. However, he claims that his knowledge is limited to what happened on the side of the island where he was stationed, and only those who were stationed on an elevated position could see what happened on all sides of the island.<sup>712</sup> A former member of Battalion 410 of Regiment 62, who was stationed on Koh Paulo Wai from 1975 to 1978,<sup>713</sup> states that when they spotted foreign vessels, they would inform the Division which would dispatch boats to intercept them. However, the witness expresses that prisoners were not taken to the island but "*to the rear*", which is understood to refer to Ream, because he states there was no jetty on the island.<sup>714</sup> In this regard, there is evidence, albeit hearsay, that there was a concrete jetty on Koh Poulo Wai Thmei,<sup>715</sup> and direct evidence from a witness who states that there was a wooden jetty which was used to unload the prisoners, although it is unclear which one of the Poulo Wai islands the witness is talking about.<sup>716</sup>

247. The witnesses are thus all in agreement about the capture of foreign vessels and civilians in the waters around both Koh Paulo Wai islands. The evidence differs only with regard to where boats and prisoners were brought after their capture.

#### 5.4.5 Victim numbers

248. It is difficult to give a reliable estimate of the number of foreigners who fell victim to Division 164 forces between 1975 and 1979. Estimates provided by former Division 164 members are limited in time and to the locations of their duty stations. Attempts to

<sup>710</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056675, A132-A133, ERN 01056676-01056678, A138-A158.

<sup>711</sup> **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412600-01412601; **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412806, ERN 01412835-01412836; **D54/79**, Written Record of Interview of Witness Nop Hal, 9 April 2014, ERN 00992450, A3.

<sup>712</sup> **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251769, A20-A26, ERN 01251770, A27, ERN 01251775-01251776, A80-A93.

<sup>713</sup> **D54/108**, Written Record of Interview of Witness Sao Sam, 19 June 2014, ERN 01089956, A9-A11, ERN 01089956-01089957, A14.

<sup>714</sup> **D54/109**, Written Record of Interview of Witness Sao Sam, 20 June 2014, ERN 01088478, A11-A16.

<sup>715</sup> **D4.1.754**, Organisation of Sector 37 and 3<sup>rd</sup>/164<sup>th</sup> Division Forces on Tang Island after the Mayaguez Incident, 18 July 2005, ERN 00387429.

<sup>716</sup> **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166098,



obtain Vietnam's and Thailand's cooperation in accessing their archives were unsuccessful.<sup>717</sup>

249. Yet, the evidence shows that between 1975 and 1979, Division 164 forces, including Regiment 62 and naval Regiment 140, continuously intercepted a high number of Thai fishing vessels and Vietnamese refugee boats that ventured into DK waters or that passed nearby.
250. Documentary evidence further shows that a high number of these prisoners were arrested and soon after executed. For instance, on 1 April 1978 **Meas Muth** reported that, between 27 and 30 March 1978 only, his forces had captured and shot dead 120 Vietnamese nationals.<sup>718</sup> On 7 May 1976 alone, 42 Thai fishermen and 17 Vietnamese nationals were sent from Kampong Som to S-21 where they were imprisoned and executed shortly afterwards.<sup>719</sup> Arrests and killings happened regularly.
251. Stating that the highest number of arrests and killings happened in 1977 and 1978, Division 164 soldier Pak Sok estimates that he saw people brought to Ou Chheu Teal Beach four or five times per month,<sup>720</sup> and that in 1978, between 10 to 50 prisoners were brought to the Ou Chheu Teal Port every month.<sup>721</sup> However, this estimate does not include those killed at sea and on the islands. Several witnesses report that:
- i. on Koh Tang only there were at least 250 bodies buried under coconut trees;<sup>722</sup>
  - ii. between 1976 and the beginning of 1977, 10 to 15 Thai fishermen were killed every two or three days on Koh Rong Samloem, in addition to hundreds of Vietnamese;<sup>723</sup>

<sup>717</sup> See *Attempts to obtain the assistance of Vietnam, Thailand and the United Nations*, para. 148.

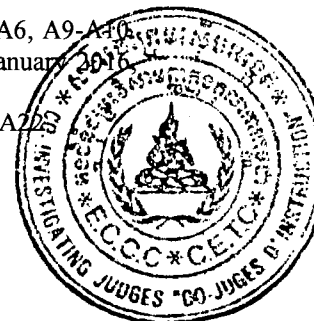
<sup>718</sup> **D1.3.30.25**, DK Military Report from Division 164, Political Section, "Secret Telephone dated 1 April 1978", 1 April 1978, ERN 00183357.

<sup>719</sup> **Thais: D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222356, nn 600, 604, ERN 01222357, nn 609, 613-616, 620, 628, ERN 01222358, nn 629, 645-646, 649-650, ERN 01222360, nn 679-680, ERN 01222860, nn 12981, 12983-12985, ERN 01222861, nn 12987-12989, 12999, 13001-13002, ERN 01222862, nn 13005-13006, 13023, ERN 01222863, nn 13031, 13052-13053, 13055, ERN 01222890, nn 13645, 13653, ERN 01222924, nn 14696-14703. While the list does not provide an entrance date at S-21 for the 8 latter entries, I am satisfied that these 8 Thai individuals also entered S-21 on 7 May 1976, since they were passengers of the same boats of the persons (mentioned in the former entries) who entered on that date. **Vietnamese: D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222356, nn 592-594, 596-597, 602, 606-607, ERN 01222357, nn 612, 625, ERN 01222358-01222359, nn 651-653, 663, ERN 01222360, nn 676, 678, ERN 01222890, n 13643.

<sup>720</sup> **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412817-01412818, ERN 01412820.

<sup>721</sup> **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977714, A6, A9-A10. See also **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412820.

<sup>722</sup> **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373290, A22.



- iii. about 1,000 Thai and Vietnamese were arrested at sea, of which a conservative estimate of about 300 to 400 were killed and buried at Koh Poulo Wai;<sup>724</sup> and
- iv. hundreds of graves were seen on the northeastern part of Koh Rong.<sup>725</sup>
252. Pak Sok estimates that the total number of Thai and Vietnamese fishermen and refugees captured by the Navy at sea and killed between 1975 and 1979 was in the “*thousands*”.<sup>726</sup> Considering that he served both on the islands and in the Navy during the entire Regime, his evidence is particularly reliable both for his insider position and because it extends throughout the temporal scope of the charges in this case.<sup>727</sup>
253. Stationed on the islands from April 1975 until at least late 1976,<sup>728</sup> Ek Ny estimates that there were “*over 1,000... [not] fewer than 1,200 or 1,300*” victims.<sup>729</sup> Among the seized boats he witnessed, only four were Thai, and “*the rest were Vietnamese*”.<sup>730</sup> Over the course of this 20-month period, Ek Ny witnessed the capture of Vietnamese boats carrying refugees, sometimes three to four vessels per day, or per month.<sup>731</sup> Each of these captured boats was carrying between 30 and 60 persons.<sup>732</sup> Ek Ny’s evidence is

<sup>723</sup> Between 1976 and the beginning of 1977: D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056672, A110-A111; D114/40, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079235, A65. 10 to 15 Thai and hundreds of Vietnamese: D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056665-01056666, A60-A65; ERN 01056667, A73-A78, ERN 01056668, A84-A85.

<sup>724</sup> D220/1.2.1, DC-Cam Statement of Ou Kim, 03 March 2015, ERN 01375006-01375007, *as confirmed in D114/126*, Written Record of Interview of Witness Ou Kim, 19 September 2015, ERN 01166091-01166092, A43-A46; D114/127, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166103, A34, ERN 01166104, A41-A43.

<sup>725</sup> D114/98, Written Record of Interview of Witness Sieng Koy, 30 July 2015, ERN 01184852, A80-A83.

<sup>726</sup> D54/25, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977714, A11; D114/282, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373284, A58. *See also D54/24.1*, DC-Cam Statement of Pak Sok, 25 April 2007, ERN 00978576; D114/126, Written Record of Interview of Witness Ou Kim, 19 September 2015, ERN 01166091, A43, A46 indicating that 300 to 400 captured persons killed on the island was the “*least possible number*”; then stating that “*the figure of 1,000 was the total number of Thai and Vietnamese*”.

<sup>727</sup> D54/25, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977714-00977715, A12-A15; D114/297.1.20, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412591.

<sup>728</sup> From April 1975: D114/283, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288, A2. *See also D114/282*, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373279, A22, ERN 01373281, A38, ERN 01373283, A48-A50. Until late 1976/early 1977: D54/105, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025194-01025195, A7-A8; D114/283, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288, A2.

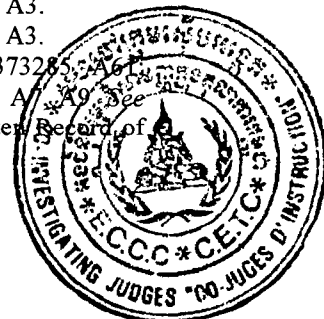
<sup>729</sup> D114/282, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373284-01373285, A60-A61.

<sup>730</sup> D114/283, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288, A3.

<sup>731</sup> D114/283, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288, A3.

<sup>732</sup> D114/282, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373284, A58.

D114/283, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288, A2, *also confirming and indicating that boats occasionally carried up to 70 people: D114/126*, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056665-01056666, A60-A65; ERN 01056667, A73-A78, ERN 01056668, A84-A85.

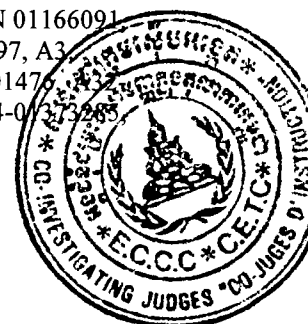


reliable considering his insider position and his personal knowledge of the captures.<sup>733</sup> It is impossible to determine with mathematical certainty the proportionate occurrence of captures per day as opposed to per month. Comparative calculations based on the evidence must be combined with a pragmatic and common-sense evaluation of the different number ranges, bearing in mind the *in dubio pro reo* principle.

- i. The general baseline for the calculation under the *in dubio pro reo* principle is 20 months when three boats of 30 people were captured per month.
- ii. The witness also experienced periods over the 20 months when at least three captures of 30 people per boat occurred every day. He does, however, not specify the number of days, nor does he describe it as a wholly exceptional occurrence. Even assuming that one day of three captures statistically occurred every month, it cannot be excluded that any such day would have represented the entirety of the capture for that month, because the evidence does not allow for any higher minimum estimate of days with three captures per month.
- iii. The minimum total of Thai and Vietnamese captured at sea as observed by the witness alone over the 20 months is thus 1,800 people (20 months x 3 boats x 30 people).
- iv. From this total, the 4 boats x 60 Thai fishermen recounted by the witness must be deducted (240) regarding the count of genocide of the Vietnamese. The number of 60 is required here because, in relation to the charge of genocide of the Vietnamese, it is more beneficial to **Meas Muth** if the highest calculable number of Thai is adopted.
- v. The bare minimum calculation of Vietnamese captured at sea during the time observed by this witness alone is thus 1,560, which ties in with his own estimate of not less than 1,200 or 1,300.
- vi. However, given the remainder of the relevant evidence, there is no reason to believe that the DK Navy's practice of capture of Vietnamese and Thai was any

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Interview of Witness Ou Kim, 19 September 2015, ERN 01166089, A34, ERN 01166090, A38, ERN 01166091, A43; **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166097, A3;  
<sup>733</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001475-01001477;  
**A44; D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373284-01001477, A57-A63.



different during the rest of the DK Regime. It is thus possible to extrapolate from the already very conservative estimate for 20 months based on the testimony of Ek Ny to the entire duration of DK. The fact that the bare minimum (after the maximum adjustment for Thai victims *vis-à-vis* the Vietnamese victim total) is used for this calculation, accommodates and adjusts for the caveat from the testimony that in those 20 months the capture numbers were among the highest observed by that witness. Given that the vessels were already being seized as early as late June 1975,<sup>734</sup> and based on the evidence that the captures continued until the end of 1978, this leads to a very conservative minimum extrapolated number of 3,276 Vietnamese (42 months x 78 captured Vietnamese per month; the number of 78 per month results from dividing the 1,560 victims calculated above, after deduction of the 240 Thai, by 20 months).

254. Two DC-Cam statements suggest that some Vietnamese were exceptionally released.<sup>735</sup> These assumptions are not credible. Rather, the overwhelming remainder of evidence shows that all the Vietnamese captured by the Navy were killed, and that those were the orders.<sup>736</sup> In any event, as already expressed in the indictment in Case 004/2,<sup>737</sup> the fact that occasionally exceptions may have been made does not detract from the existence and implementation of the order to eliminate all Vietnamese.
255. However, the evidence is unclear as to the proportion of where those victims were killed – whether at sea, on the islands, or on the mainland (including at the Durian Plantation and at S-21).<sup>738</sup> The potential for overlap and double-counting is thus

<sup>734</sup> **D114/24**, Written Record of Interview of Witness Ou Dav, ERN 01074596-01074597, A88-A94.

<sup>735</sup> **D59/1/1.12**, DC-Cam Statement of Nob (Nop) Hal, 28 June 2007, ERN 00968401. *See also* **D220/1.2.1**, DC-Cam Statement of Kim Ou, 3 March 2015, ERN 01375006.

<sup>736</sup> **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373289, A18; **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373285, A63; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001476, A41; **D114/297.1.20**, Transcript of Hearing on the Substance of Case 002/2 [Pak Sok], 16 December 2015, ERN 01412581, lines 6-7, ERN 01412599, lines 1-25, ERN 01412600, lines 1-25, ERN 01412612, lines 8-25, ERN 01412613, lines 5-15, *see also* ERN 01412619, lines 14-20; **D114/297.1.21**, Transcript of Hearing on the Substance of Case 002/2 [Pak Sok], 5 January 2016, ERN 01412798, lines 1-11, ERN 01412824, lines 11-13; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977534, A25, A29, A31-A34; **D54/26**, Written Record of Interview of Witness Pak Sok, A23-A24; **D114/31**, Written Record of Interview of Witness Moul Chhin, ERN 01056662, A36, ERN 01056663-01056664, A46-A49, ERN 01056666-01056668, A68-A84; **D114/285**, Written Record of Interview of Witness Bun Sarat, 28 November 2016, ERN 01375305, A193-A195; **D4.1.754**, U.S. Cable regarding Mayaguez Incident and Observations on Tang Island December 1975, 21 October 2009 (filing date), ERN 00387429.

<sup>737</sup> **Case File No. 004/2-D360**, [Redacted] *Closing Order (Indictment)*, 16 August 2018, paras 620-621.

<sup>738</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474, A29, ERN 01001476, A41, A43-A44; **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373284, A57, ERN 01373285, A63.





evident. It is sufficient for the purpose of a closing order – and, more particularly, for establishing one element relevant to personal jurisdiction, i.e. the gravity of the acts of the charged person – to recount the overall number of deaths. Having done so, there is no need to attempt to pinpoint the killing sites or engage with anecdotal evidence of witnesses from each individual killing site, some of which moreover only yield numbers in the single or double figures.<sup>739</sup> This Closing Order will therefore be based on the finding that a very conservative minimum of **3,276** Vietnamese were killed during DK on the basis of capture operations by the DK Navy.

256. Since Thai captives were occasionally spared,<sup>740</sup> only Moul Chhin's evidence of killings could be taken into consideration for the purpose of calculation.<sup>741</sup> This former Battalion 386 soldier, who spent one year on Koh Rong Samloem in 1976,<sup>742</sup> saw 10 to 15 Thai fishermen killed every two or three days.<sup>743</sup> The lowest calculated total – 10 persons x 10 days x 12 months – results in **1,200** Thai killed by the DK Navy.

257. Considering that:

- i. these estimates arise from only one military report and the eye-witness accounts of two Division 164 soldiers;<sup>744</sup>
- ii. the lowest figures were considered as a basis for calculation;
- iii. several other witnesses testify about killings of Vietnamese and Thai captives without quantifying them;<sup>745</sup>

<sup>739</sup> **D1.3.30.25**, DK Military Report from Division 164, Political Section, "Secret Telephone", 1 April 1978, ERN 00183357, ERN 00143507; **D1.3.34.64**, Confidential telephone message, 20 March 1978, ERN 00233649; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412589-01412591, ERN 0141600-01412601; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055481, A121-A127, ERN 01055483, A135-A136; **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044934-01044935, A80-A87; **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222328-01222936: *see* for instance para. 250 listing numbers of Thai and Vietnamese sent from Kampong Som to S-21 on 7 May 1976 alone.

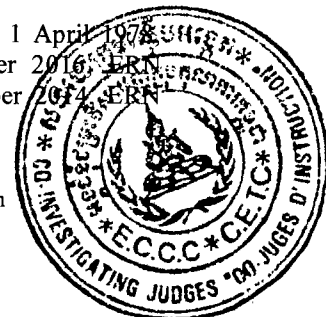
<sup>740</sup> *See* para. 218.

<sup>741</sup> As a result, the four Thai boats seized referred to in Ek Ny's testimony (*see* **D114/283**, Written Record of Interview of Witness Ek Ny, 24 November 2016, ERN 01373288, A3) were not factored into this calculation.

<sup>742</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056662, A34, A36, ERN 01056672, A110-A111; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079235, A65.

<sup>743</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056665-01056666, A60-A65.

<sup>744</sup> **D1.3.30.25**, DK Military Report from Division 164, Political Section, "Secret Telephone", 1 April 1978, ERN 00183357; **D114/282**, Written Record of Interview of Witness Ek Ny, 23 November 2016, ERN 01373285, A63; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056665-01056666, A60-A61.



- iv. all the evidence where double-counting could not be excluded was disregarded; and that,
- v. as explained above, attempts at obtaining Vietnam's and Thailand's cooperation in accessing their archives to find more evidence were unsuccessful;

a total of 4,476 victims (1,200 Thai and 3,276 Vietnamese) linked to the DK Navy capture policy over the duration of the DK Regime appears to be an extremely conservative estimate; the number of victims was most likely much higher.

## 5.5 Durian Plantation Killing Site

### 5.5.1 Object of the charge

258. As a preliminary matter, the evidence supports the existence of several durian plantations in the wider Ream Cooperative vicinity. Accordingly, the ICP refers to two plantations used as killing sites in his final submission, namely a plantation near the sea shore and at the foot of the mountain range to the west of what was then Kang Keng Airfield, which he calls “*Durian I*”, and another plantation on the other side to the Northwest of the same mountain range and closer to Bet Trang, which he calls “*Durian II*”.

259. In the ICIJ's forwarding order of 24 April 2012<sup>746</sup> and the ICP's response of 21 June 2012<sup>747</sup> regarding the question of whether the CIJs were seised of “the” durian plantation killing site, reference was made exclusively to WRIs which spoke about

<sup>745</sup> **D114/126**, Written Record of Interview of Witness Ou Kim, 19 September 2015, ERN 01166084-01166085, A7-A9, ERN 01166089-01166091, A31-A45; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056667, A74, A76, A78, ERN 01056668, A81-A85, ERN 01056675, A132-A133, ERN 01056676, A136-A142, ERN 01056677, A152; **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977713-00977714, A7, A12, ERN 00977716, A20; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977534, A25; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412591, lines 16-22, ERN 01412592, lines 7-17, ERN 01412600-01412601; **D114/297.1.21**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 5 January 2016, ERN 01412806, ERN 01412835-01412836; **D2/6**, Written Record of Interview of Witness Nhong Chrong, 24 August 2010, ERN 00607261, A40-A43; **D2/17**, Written Record of Interview of Witness In Saroeun, 12 November 2010, ERN 00628144, A7-A13; **D59/2/3.13a**, DC-Cam Statement of Neak Yoeun, ERN 01421486, as confirmed in **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076877, A36, A39, ERN 01076878, A42. See also **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013, 00977319-00977320, A41-A50; **D114/2**, Written Record of Interview of Witness Lak Saphan, ERN 01046902-01046903, A7, ERN 01046905, A20; **D114/127**, Written Record of Interview of Witness Ou Kim, 20 September 2015, ERN 01166097, A4, ERN 01166099, A13-A14; **D114/128**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055481-01055482, A121-A122.

<sup>746</sup> **D47**, Forwarding Order, 24 April 2012.

<sup>747</sup> **D47/1**, International Co-Prosecutor's Response to Forwarding Order of April 24 2012, 21 June 2012.



Durian I. The text of both the forwarding order<sup>748</sup> and of the ICP's response<sup>749</sup> is clear in that only one plantation was the object of the query from the ICIJ, and that was Durian I. The same applies to the charges announced at **Meas Muth's** initial appearance before the ICIJ in Battambang on 14 December 2015.<sup>750</sup>

260. Durian II was thus not formally covered by the investigation, and evidence pertaining to it arose merely coincidentally during the questioning of witnesses when investigating Durian I. No other forwarding order was made by the CIJs regarding Durian II. While it might have in theory been possible, albeit at a stretch, to consider Durian II in the context of the charges related to the Bet Trang work site due to their proximity, there are no charges of homicide laid at Bet Trang, hence an inclusion of Durian II as a killing site under the charges related to Bet Trang is not feasible. The CIJs were therefore never formally seised of Durian II, no charges were ever laid in relation to it, it was not the *object* of the investigation, and it follows that it cannot form part of this Closing Order. All references hereinafter to a durian plantation are thus only to what the ICP calls Durian I.

### 5.5.2 Location and time of operation

261. The plantation was located at the foot of the mountain range directly to the west of Kang Keng Airfield, and about 1 kilometre from the south-western sea shore. It was close to a coconut and orange plantation, and the combined location was sometimes referred to as the Cheng Heng orchards.<sup>751</sup>

<sup>748</sup> **D47**, *Forwarding Order*, 24 April 2012, para. 6; **D2/6**, Written Record of Interview of Witness Nhoung Chrong 24 August 2010, ERN 00607253; **D2/17**, Written Record of Interview of Witness In Saroeun, 12 November 2010, ERN 00628142.

<sup>749</sup> **D47/1**, *International Co-Prosecutor's Response to Forwarding Order of April 24 2012*, 21 June 2012, para. 6.

<sup>750</sup> **D174**, Written Record of Initial Appearance of Meas Muth, 14 December 2015, ERN 01187675, ERN 01187678.

<sup>751</sup> **D114/58**, Written Record of Interview of Witness Som Saom, 20 March 2015, ERN 01089950, A47-A49; **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118157, A1, ERN 01118158-01118159, A10-A12 and **D114/77.3**, Attachment 3: Sketch of Places, 27 May 2015, ERN 01517435; **D114/175**, Written Record of Interview of Civil Party Applicant Neak Sitha, 20 February 2016, ERN 01218496, A22-A25 and **D114/175.1**, Annex: Administrative Map of Sihanouk Vill Province, 4 March 2016, ERN 01211334; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475852, A47; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474, A29-A30; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977281, A33; **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977835, A11, A13, ERN 00977836, A14 and **D54/26.1**, Administrative Map of Steung Hav District, Sihanouk Ville 2008 – 2010, 31 October 2013, ERN 00955542; **D54/45**, Written Record of Interview of Witness Lon Seng, 12 December 2013, ERN 00975056, A26 and **D54/45.2**, Geographical and Road Network Sihanouk Ville, 2 January 2014, ERN 00967555, D54/90.



262. The plantation operated as a killing site from as early as 1975, shortly after the fall of Phnom Penh, and continued to be used until at least 1977.<sup>752</sup>

### 5.5.3 *Structure and personnel*

263. The plantation was under the control of troops attached to Division 164. One witness, a DK soldier, mentions that he was already stationed nearby in 1975, before the military substructure of Division 164 was renamed, stating that he served as a member of “*Battalion 386 of Sector 37*”, whereas the subordinate units of Division 164 billeted in the Ream vicinity were later known as Regiments 62 and 63.<sup>753</sup> The following were named by witnesses as area sub-commanders: Nhann, Chorn,<sup>754</sup> and Meanh.<sup>755</sup>

### 5.5.4 *Use as a killing site*

264. There is ample evidence of mass killings having taken place at the plantation, although there is no direct eyewitness testimony to an actual event of killing. All evidence related to killings is hearsay or even double hearsay, yet there are eyewitness accounts regarding persons being walked across the plantation by soldiers of either Regiments 62 or 63 of Division 164. However, the evidence forms recurrent patterns which allow a sufficiently firm and coherent inference to be drawn that supports the allegation that the plantation was used, and used copiously, as a killing site. Witnesses have testified that either during or after DK, many human remains could be found on the plantation. Strewn among the remains were clothes and pieces of rope. Regarding the latter, the inference is justified that they had been used to bind the victims, not least because

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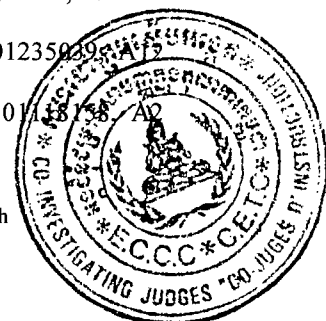
Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056722, A1 and **D54/89.1**, Administrative Map of Prey Nob District, 3 May 2014, ERN 00987086; **D54/109**, Written Record of Interview of Witness Sao Sam, 20 June 2014, ERN 01088479, A17; **D54/120**, Written Record of Interview of Witness Prom Kem, 18 August 2014, ERN 01151114, A8-A9 and **D54/120.1**, Sketch of Places, 18 August 2014, ERN 01023168; **D2/17**, Written Record of Interview of Witness In Saroeun, 12 November 2010, ERN 00628144, A6.

<sup>752</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474-01001475 A32, A39; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977282, A42, 00977284, A54; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056722, A1; **D2/6**, Written Record of Interview of Witness Nhong Chrong, 24 August 2010, ERN 00607262, A48.

<sup>753</sup> **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235039, A12; **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118158, A2; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474, A31 (on “*Battalion 386*”); **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977835-00977836, A13; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056724, A7; **D2/6**, Written Record of Interview of Witness Nhong Chrong, 24 August 2010, ERN 00607261, A43-A44.

<sup>754</sup> **D114/66**, Written Record of Interview of Witness, Chet Bunna, 29 April 2015, ERN 01235039, A12 (Regiment 63).

<sup>755</sup> **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118158, A2 (Regiment 62).

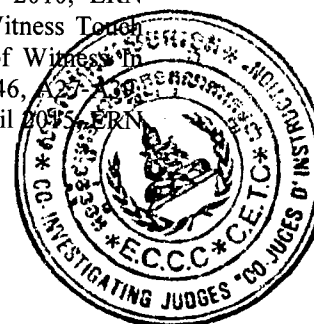


sporadic eyewitness accounts confirm that victims were walked tied and blindfolded across the plantation.<sup>756</sup>

265. The victims killed at the plantation appear to have been overwhelmingly Thai and Vietnamese fishermen captured by the Navy, whom witnesses recognised mainly by their multi-coloured clothing that stood out starkly against the DK military black uniforms. There is evidence, however, that local civilians were killed at the site as well.<sup>757</sup>
266. One particular recurring and gruesome piece of evidence is the use of the victims' bodies as fertiliser for the durian trees on the plantation. Bodies were buried in pits under each durian tree. Testimony related to the number of bodies per tree is unclear for this plantation but in relation to other plantations in the Ream area under the control of Division 164 it ranges from at least two to four. In fact, the amount of dead bodies around the trees was apparently so large in some places that the trees began to die from

<sup>756</sup> **D114/5**, Written Record of Interview of Civil Party Applicant Phan Rin, 30 September 2014, ERN 01047664, A40, ERN 01047665, A42; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235039, A11-A12; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128193, A132-A136; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207340, A202, ERN 01207341, A203-A208; **D114/175**, Written Record of Interview of Civil Party Applicant Neak Sitha, 20 February 2016, ERN 01218496, A22-A28; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474, A29, A32, ERN 01001476, A41-A42; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977281 A33-A36, ERN 00977282, A37-A44, ERN 00977283, A45-A51, ERN 00977284, A52-A55; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977534, A25, ERN 00977536, A35; **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977835, A13, ERN 00977836, A15-A16; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056722, A1-A2, ERN 01056723, A3-A6; **D54/118**, Written Record of Interview of Witness Prom Kem, ERN 01066680, A1 (referring to prior investigator's summary); **D54/120**, Written Record of Interview of Witness Prom Kem, 18 August 2014, ERN 01151112-01151113, A4; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607261, A40-A42, A44, ERN 00607262, A45-A46; **D2/16**, Written Record of Interview of Witness Touch Soeuli, 11 November 2010, ERN 00629465, A32-A33; **D2/17**, Written Record of Interview of Witness In Saroeun, 12 November 2010, ERN 00628144, A6-A14, ERN 00628145, A15-A26, ERN 00628146, A27-A39, ERN 00628147, A40-A43.

<sup>757</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474-01001475, A29, A32; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977281, A33-A36, ERN 00977282, A37-A44, ERN 00977283, A45-A51, ERN 00977284, A52-A55; **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977835, A13, 00977836, A15-A16; **D54/118**, Written Record of Interview of Witness Prom Kem, ERN 01066680, A1 (referring to prior investigator's summary); **D54/120**, Written Record of Interview of Witness Prom Kem, 18 August 2014, ERN 01151112-01151113, A4; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607261, A40-A42, A44, ERN 00607262, A45-A46; **D2/16**, Written Record of Interview of Witness Touch Soeuli, 11 November 2010, ERN 00629465, A32-A33; **D2/17**, Written Record of Interview of Witness In Saroeun, 12 November 2010, ERN 00628144, A6-A14, ERN 00628145, A15-A26, ERN 00628146, A27-A39, ERN 00628147, A40-A43; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235039, A11. See also *Crimes committed by the DK Navy*, para. 231.



too much fertilisation.<sup>758</sup> It stands to reason that the practice would not have been significantly different on different plantations under the control of Division 164 and hence the evidence from other plantations is useful as an indicator for the practice at Durian I.

267. Even assuming the lower number of two bodies per tree and the average size of a plantation with at least several dozens of trees,<sup>759</sup> combined with the numbers of Vietnamese and Thai captured at sea, the number of persons killed there over time must have been in the hundreds, so that a very conservative minimum number of 200 over the operation of the killing site is justified; there were in all likelihood many more.<sup>760</sup>
268. As evidence arising from the other crimes committed by the Navy in the islands confirms, instructions from **Meas Muth** as the Commander of Division 164 meant that *all* Vietnamese captured on the seas were to be killed due to them being the historical arch-enemy of the Khmer, while the fate of the Thai so captured was subject to occasional exceptions due to exchanges for goods. With the passage of time, however, DK military units in the region were increasingly instructed to kill such persons either on the spot at sea, or at their own stations in the islands, rather than waste resources by having them sent to Ream and killed at the plantation.<sup>761</sup> It also appears that the order to use the victims as fertiliser originated directly with **Meas Muth**,<sup>762</sup> which again is confirmed by the uniform practice of using them as fertiliser on other killing sites under

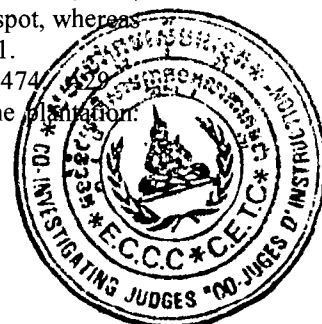
<sup>758</sup> **D114/2**, Written Record of Interview of Witness Lak Saphan, 9 September 2014, ERN 01046900, A1, ERN 01046901, A3, ERN 01046902, A4, A6, 01046903, A8; **D54/123**, Written Record of Interview of Witness Lak Saphan, 21 August 2014, ERN 01066720, A10-A12, ERN 01066721, A13-A16; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056726, A20, ERN 01056727, A21-A27, ERN 01056728, A28-A34; **D54/102**, Written record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474, A29, ERN 01001475, A32; **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977835, A13, ERN 00977836, A15-A16; **D54/118**, Written Record of Interview of Witness Prom Kem, ERN 01066680, A1 (referring to prior investigator's summary); **D54/120**, Written Record of Interview of Witness Prom Kem, 18 August 2014, ERN 01151112-01151113, A4; **D2/6**, Written Record of Interview of Witness Nhong Chrong, 24 August 2010, ERN 00607261, A40-A42, A44, ERN 00607262, A45-A46.

<sup>759</sup> Due to the topographical changes and especially major soil movements in the area over time, an accurate tree count was, of course, no longer possible, and witnesses did not recall exact numbers. However, even several dozen trees would seem to be a rather conservative estimate. The same applies to the excavations of pits around the Durian trees.

<sup>760</sup> **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977835, A13, ERN 00977836, A15-A16 speaks of "hundreds of Vietnamese" alone.

<sup>761</sup> See e.g. **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977534, A25, ERN 00977536, A35 – stating that groups of up to 20 people were to be killed immediately on the spot, whereas larger groups were to be sent to the mainland. See also *Crimes committed by the DK Navy*, para. 231.

<sup>762</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474 notwithstanding the fact that one witness testified that he never heard **Meas Muth** talk about the plantation. **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977837, A20.



the control of Division 164, even on the islands; it is very unlikely that such a recurrent pattern would have arisen based solely on the local commanders' individual decisions.

#### 5.5.5 *Visits by Meas Muth*

269. There is no evidence that **Meas Muth** ever visited the plantation.

### 5.6 **Crimes against members of Divisions 164, 502, 310, and 117**

#### 5.6.1 *Introduction*

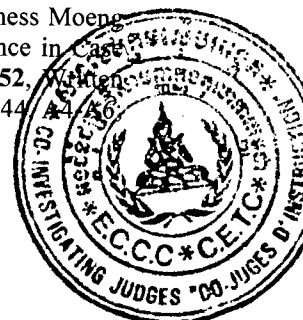
270. By the end of 1975 or early 1976, Divisions 164, 502, and 310 were 'Centre divisions', under the direct control of the General Staff, as was Division 117, following its relocation to Kratie in late 1977.<sup>763</sup> Soldiers and officers from these Divisions were purged from 1976 onwards.

#### 5.6.2 *Purge of Division 164*

##### 5.6.2.1 *Arrests and detentions*

271. Purges within Division 164 ranged from mass purges of whole units to those of individual soldiers (both in the officer corps and the rank and file). The purges were conducted by Division 164 personnel and most were placed in units and facilities in the area controlled by Division 164. Soldiers purged were either sent for 're-education' or disappeared, with the only reasonable explanation being that they were killed.

<sup>763</sup> **D114/29.1.13**, Written Record of Interview of Charged Person Kaing Guek Eav alias Duch, 20 October 2009, ERN 00398166. **Division 164**: see *RAK structure and Meas Muth's roles and responsibilities*, para. 155. **Division 502**: **D2/18**, Written Record of Interview of Witness Sreng Thi, 1 December 2010, ERN 00630434, A31; **D4.1.553**, Written Record of Interview of Witness Sreng Thi, 6 January 2009, ERN 00282224; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246896, A46-A48; **D1.3.32.27**, DC-Cam Statement of Kong Kim, 9 July 2002, ERN 00633882, as confirmed in **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184778-01184779, A47; **D4.1.845**, Written Record of Interview of Witness Lonh Dos, 20 November 2009, ERN 00407789-00407790, A24-A25; **D4.1.854**, Written Record of Interview of Witness Seng Mon, 22 July 2009, ERN 00359932, ERN 00359934; **D234/2.1.107**, Transcript of Hearing on the Substance in Case 002/02 [Nhem En], 19 April 2016, ERN 01248948, lines 4-10. **Division 310**: **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246986, A47; **D4.1.845**, Written Record of Interview of Witness Lonh Dos, 20 November 2009, ERN 00407789, A24; **D234.2.1.50**, DK-Military Report on the overall situation in Division 310 and Division 450, 12 March 1976, ERN 00876995. See also **D114/168**, Written Record of Interview of Witness Prin Ngik, 8 February 2016, ERN 01218476, A58; **D114/297.1.31**, Transcript of Hearing on the Substance in Case 002/02 [Sem Om], 20 September 2016, ERN 01370089-01370090; **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475936, A71. **Division 117**: **D54/63**, Written Record of Interview of Witness Moeng Vet, 14 February 2014, ERN 00982738, A15; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982724, A4; **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347071, lines 1-2, ERN 01347073, lines 6-10; **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076743, A1, ERN 01076744, A2; **D114/84**, Written Record of Interview of Witness Ek Sophal, 12 June 2015, ERN 01119966, A26.



272. There were at least three mass purges of troops in Division 164:

- i. East Zone soldiers;
- ii. Battalion 310; and
- iii. Battalions 385 and 386.

*East Zone soldiers*

273. East Zone soldiers were purged *en masse* from the eastern part of the country.<sup>764</sup> Initially, it was alleged that Sao Phim, who was the East Zone Secretary,<sup>765</sup> was aiding the Vietnamese.<sup>766</sup> Thereafter, all East Zone soldiers were considered traitors.<sup>767</sup> A plan was drawn up to purge the East Zone, and **Meas Muth**, Ta Mok and Sou Met took part in this operation.<sup>768</sup>

274. More than 500 soldiers from the East Zone were sent to Kampong Som in 1975 to help form the new Division 164 (testimony ranges from 500 to 1,500 soldiers being sent).<sup>769</sup> They were led by Dim who became one of **Meas Muth**'s deputies.<sup>770</sup> These troops were integrated into the Navy and other Division 164 units.<sup>771</sup>

<sup>764</sup> **D32/6**, Written Record of Interview of Witness Kev Vichet, 4 April 2012, ERN 00808489-00808490, A23; **D114/87**, Written Record of Interview of Witness Chhouk Rin, 16 June 2015, ERN 01118166-01118167, A6.

<sup>765</sup> **D32/2**, Written Record of Interview of Witness Chhem Hoeng, 6 March 2012, ERN 00808459, A12; **D32/13**, Written Record of Interview of Witness Long Sat, 1 May 2012, ERN 00976850, A3; **D54/96**, Written Record of Interview of Witness Teng Sarim, 22 May 2014, ERN 01074498, A5-A6.

<sup>766</sup> **D32/10**, Written Record of Interview of Witness Khieu Saran, 25 April 2012, ERN 00919317, A10.

<sup>767</sup> **D54/96**, Written Record of Interview of Witness Teng Sarim, 22 May 2014, ERN 01074498, A6.

<sup>768</sup> **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 011055473, A75; **D114/87**, Written Record of Interview of Witness Rin Chhouk, 16 June 2015, ERN 01118167-01118168, A8-A12, ERN 01118169, A36; **D114/159**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 February 2016, ERN 01213424-01213425, A28; **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184777, A36, ERN 01184779, A50-A52, ERN 01184783-01184784, A71-A76; **D98/3.1.27**, Transcript of Hearing on the Substance in Case 002 [Chhouk Rin], 22 April 2013, ERN 00902652, lines 12-24; **D4.1.408**, Written Record of Interview of Witness Chhouk Rin, 21 May 2008, ERN 00268871. See following paragraphs and Purges of Divisions 502, 310, and 117, paras 300-302.

<sup>769</sup> **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20 (700); **D54/44**, Written Record of Interview of Witness Lon Seng, 11 December 2013, ERN 00975226, A5, ERN 00975229, A19 (1,500); **D114/95**, Written Record of Interview of Witness Yoem Sroeng, 27 July 2015, ERN 01137191, A52 (500-600); **D114/220**, Written Record of Interview of Witness San Chuon, 16 June 2016, ERN 01395484-01395485, A23 (approximately 1,000).

<sup>770</sup> **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180852-01180853, A12; **D114/85**, Written Record of Interview of Witness Chet Bunna, 15 June 2015, ERN 01119971, A10, ERN 01119973, A29; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395462-01395463, A12-A13, ERN 01395466, A17; **D114/220**, Written Record of Interview of Witness San Chuon, 16 June 2016, ERN 01395484-01395485, A23, A27, ERN 01395488, A47.

<sup>771</sup> **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613022, A38; **D114/220**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056660, A22;





275. Following Dim's arrest in early 1977,<sup>772</sup> these soldiers were disarmed<sup>773</sup> and were removed from various locations including the islands,<sup>774</sup> Navy vessels,<sup>775</sup> and even recalled from training programs in China;<sup>776</sup> first the leaders and then the rank and file soldiers.<sup>777</sup> At a meeting held at Division 164 Headquarters in Kampong Som **Meas Muth** announced that all soldiers who came from the East Zone were considered to be "bad-elements", and required their complete removal from the Division.<sup>778</sup> East Zone soldiers were considered as "enemies",<sup>779</sup> having "no good tendencies"<sup>780</sup> or being "not good elements".<sup>781</sup> The soldiers were mainly placed in Division 164's production or mobile units and sent to work in different locations including Stung Hav and the Ream Area worksites; thus, East Zone soldiers were assigned to farming, building dams, digging canals, constructing a port, and working at rock quarries.<sup>782</sup>

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Written Record of Interview of Witness Chet Bunna, 15 June 2015, ERN 01119971, A10; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128186-01128187, A16-A17.

<sup>772</sup> See *RAK structure and Meas Muth's roles and responsibilities*, para. 157.

<sup>773</sup> **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977260, A15; **D54/44**, Written Record of Interview of Witness Lon Seng, 11 December 2013, ERN 00975227, A6. See also **D114/220**, Written Record of Interview of Witness San Chuon, 16 June 2016, ERN 01395486, A31-A33, ERN 01395489, A53-A54.

<sup>774</sup> **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128188-01128189, A41, A45-A47, A51-A55; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395466-01395468, A17, A23-A24. See also **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074508-01074510, A5, A10, ERN 01074513, A26-A27, ERN 01074514, A29.

<sup>775</sup> **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20; **D54/112**, Written Record of Interview of Witness Long Chhea, 8 July 2014, ERN 01022566-01022567, A128-A149.

<sup>776</sup> **D54/76**, Written Record of Interview of Witness Uy Nhik, 31 March 2014, ERN 00987490, A16; **D54/93**, Written Record of Interview of Witness Yem Sam On, 9 May 2014, ERN 01055538, A32. See also **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044922-01044923, A19-A23.

<sup>777</sup> **D2/16**, Written Record of Interview of Witness Touch Soeuli, 11 November 2010, ERN 00629463, A20; **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977840, A33-A35; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509, A10, ERN 01074514, A31, ERN 01074516, A41. See also **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977260, A15.

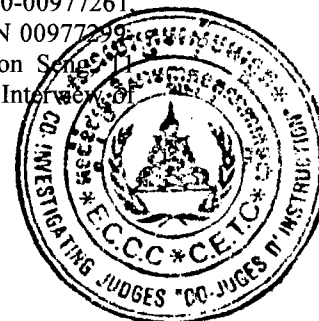
<sup>778</sup> **D54/44**, Written Record of Interview of Witness Lon Seng, 11 December 2013, ERN 00975229, A19, ERN 00975230, A22-A27.

<sup>779</sup> **D54/44**, Written Record of Interview of Witness Lon Seng, 11 December 2013, ERN 00975230, A26; **D114/220**, Written Record of Interview of Witness San Chuon, 16 June 2016, ERN 01395486, A30.

<sup>780</sup> **D54/76**, Written Record of Interview of Witness Uy Nhik, 31 March 2014, ERN 00987490, A16.

<sup>781</sup> **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509-01074510, A10; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041-01235042, A19, A22; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395474, A61, A65.

<sup>782</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, paras 339, 344, *Stung Hav Worksites*, paras 364, 377, 380. **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977260-00977261, A15, A19; **D54/36**, Written Record of Interview of Witness Prak Sokha, 13 November 2013, ERN 00977302, A2, A11-A12, A17, A24-A25; **D54/44**, Written Record of Interview of Witness Lon Seng, 11 December 2013, ERN 00975227-00975228, A6, A15-A16. See also **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056669, A89.



*Battalion 310*

276. Soldiers from Division 164, including those from Battalion 310, were sent to the Koh Poulo Wai islands and Tho Chu island.<sup>783</sup> In late May and in early June, 1975, Tho Chu and then the Koh Poulo Wai islands were attacked by the Vietnamese.<sup>784</sup> The DK forces were overrun and more than two hundred soldiers mainly from Battalion 310 were captured. They were taken to Koh Tral island where they were held for approximately three months.<sup>785</sup>
277. King Sihanouk held a special conference promoting friendship and solidarity between Cambodia and Vietnam and was able to obtain their release.<sup>786</sup> When the soldiers returned to Kampong Som, they were no longer trusted.<sup>787</sup> It was believed that they had been indoctrinated by the Vietnamese and had become “*KGB or Vietnamese agents*”.<sup>788</sup> They were removed from their units and, like the East Zone soldiers, were

<sup>783</sup> **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975219, A15; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116297, A29, ERN 01116302, A115, A121; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475855, A73; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251779, A110-A111; **D114/287**, Written Record of Interview of Witness Heang Reth, 30 November 2016, ERN 01377956, A17.

<sup>784</sup> See *Armed conflicts with Vietnam and Thailand*, para. 207. **D54/6.1.12**, Transcript of Hearing on the Substance in Case 001 [Nayan Chanda], 25 May 2009, ERN 00334091-00334092; **D32/12.1**, Pham Van Tra, *A Soldier's Life: A Memoir*, 2009, People's Army Publishing House, Hanoi, ERN 00432793-00432794, ERN 00432797-00432799; **D234/2.1.1**, Diplomatic Document, “Vietnamese-Cambodia Relations”, 11 April 1978, ERN S 00010500-S 00010501; **D4.1.987**, Evidences on the Vietnamese Aggression against Democratic Kampuchea, 26 January 1978, ERN 00420578.

<sup>785</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116302, A121, ERN 01116303, A133, ERN 01116304, A149-A151, A157, ERN 01116306, A192-A194, ERN 01116308-01116309, A229; **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975219, A15; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251779, A110-A111; **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375310, A144-A145. See also **D114/287**, Written Record of Interview of Witness Heang Reth, 30 November 2016, ERN 01377960, A41-A42.

<sup>786</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116304, A158, ERN 01116306, A197, ERN 01116308-01116309, A229; **D114/79.1**, DC-Cam Statement of Kang Sum, March 2015, ERN 01123283. See also **D114/85**, Written Record of Interview of Witness Chet Bunna, 15 June 2015, ERN 01119970, A3.

<sup>787</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116304-01116305, A164-A165, A169, ERN 01116306, A200, ERN 01116307, A202, ERN 01116308-01116309, A229; **D114/85**, Written Record of Interview of Witness Chet Bunna, 15 June 2015, ERN 01119970-01119971, A5; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475855, A73.

<sup>788</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116305, A165, ERN 01116308-01116309, A229.



sent to work in the mobile or production units, including at Stung Hav and the Ream Area worksites.<sup>789</sup>

*Battalions 385 and 386*

278. Sector 37 was in the Koh Kong area within the West Zone.<sup>790</sup> Battalions 385 and 386 from that Sector were incorporated into Division 164.<sup>791</sup> Norng Chhan, who was on the Sector Committee, was appointed as one of two Division 164 Deputy Commanders.<sup>792</sup> After he and various colleagues were arrested, having been deemed to have aligned themselves with Vietnam,<sup>793</sup> a purge of the soldiers from Battalions 385 and 386 began.<sup>794</sup>

<sup>789</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, paras 339-340, *Stung Hav Worksites*, para. 364. **D54/36**, Written Record of Interview of Witness Prak Sokha, 13 November 2013, ERN 00977299, A2, ERN 00977300, A11; **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975220, A17; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251779, A110-A113. See also, **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116308-01116309, A229-A233; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475855, A73.

<sup>790</sup> **D54/52**, Written Record of Interview of Witness Meas Voeun, 16 January 2014, ERN 00978512-00978513, A9, A14; **D114/140**, Written Record of Interview of Witness Chea Phon, 18 November 2015, ERN 01218459, A8, A12. See also **D54/76**, Written Record of Interview of Witness Uy Nhik, 31 March 2014, ERN 00987489, A7.

<sup>791</sup> **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170521, A14; **D114/155**, Written Record of Interview of Witness Sok Ren, 13 January 2016, ERN 01207301-01207302, A62, A64. See also **D54/10**, Written Record of Interview of Witness Meu Ret, 23 June 2013, ERN 00977231-00977232, A7.

<sup>792</sup> **D54/10**, Written Record of Interview of Witness Meu Ret, 23 June 2013, ERN 00977231-00977232, A7; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055470, A53, A57, ERN 01055474, A86; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074435, A35; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116297, A34-A36, ERN 01116298, A44, ERN 01116312, A269.

<sup>793</sup> **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182, A3; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168411, A91, ERN 01168412, A99; **D114/178**, Written Record of Interview of Witness Im Sokhan, 24 February 2016, ERN 01226276, A17-A19; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475849, A17-A18. See also **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987503, A45; **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170519, A2, ERN 01170521, A14.

<sup>794</sup> **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182, A3; **D114/112**, Written Record of Interview of Witness Im Sokhan, 27 August 2015, ERN 01170519, A2, ERN 01170521-01170522, A14-A15; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168411, A91, ERN 01168412, A99; **D114/178**, Written Record of Interview of Witness Im Sokhan, 24 February 2016, ERN 01226276, A17-A19; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475849, A17-A18. See also **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987503, A45.



279. In 1977, a meeting was held near Kang Keng Airport for approximately 500 troops, including 100 from Battalion 386 who had been disarmed.<sup>795</sup> **Meas Muth** announced that Norng Chhan and the attendees' superiors were traitors,<sup>796</sup> and that the former soldiers of Battalion 386 should not be trusted as they were tied to "*CIA and KGB networks*".<sup>797</sup> He instructed the other soldiers to place them under surveillance.<sup>798</sup>
280. Soldiers from both Battalions were sent to production/mobile units to serve at various worksites in Kampong Som.<sup>799</sup> One witness estimated that 80% of Battalion 386, approximately 100 members, were sent to work at Stung Hav.<sup>800</sup> In addition, 20 women who served under Norng Chhan as cooks, messengers, and assistants were arrested and sent to Toek Sap Security Centre after his arrest.<sup>801</sup>

#### 5.6.2.2 *Removal from military units*

281. Many soldiers who were purged would be disarmed and sent to a working unit for "*tempering*".<sup>802</sup> The terms 'tempering', 're-education' and 'refashioning' were used at times synonymously.<sup>803</sup> Tempering referred to hard labour that was conducted in order to rebuild, improve, correct or re-fashion one's character.<sup>804</sup> If they did well or showed

<sup>795</sup> **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025184, A8. Cf. **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056669, A93, ERN 01056670, A95; **D54/76**, Written Record of Interview of Witness Uy Nhik, 31 March 2014, ERN 00987491, A19-A20.

<sup>796</sup> **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128189, A60, A63; **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025183, A7, ERN 01025184, A8; **D114/178**, Written Record of Interview of Witness Im Sokhan, 24 February 2016, ERN 01226274, A8-A9.

<sup>797</sup> **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025184, A8. See also **D54/76**, Written Record of Interview of Witness Uy Nhik, 31 March 2014, ERN 00987491, A19.

<sup>798</sup> **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025184, A8.

<sup>799</sup> See *Stung Hav Worksites*, para. 364. **D54/76**, Written Record of Interview of Witness Uy Nhik, 31 March 2014, ERN 00987490-00987491, A17-A18; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056669, A92-A93, ERN 01056680, A170-A172; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074432, A16.

<sup>800</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987500, A23, ERN 00987503, A40, A45-A46. See also **D114/178**, Written Record of Interview of Witness Im Sokhan, 24 February 2016, ERN 01226276, A17.

<sup>801</sup> **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182, A3.

<sup>802</sup> **D114/85**, Written Record of Interview of Witness Chet Bunna, 15 June 2015, ERN 01119970-01119971, A3-A5; **D114/178**, Written Record of Interview of Witness Im Sokhan, 24 February 2016, ERN 01226276, A17-A19, ERN 01226279, A33; **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20; **D54/44**, Written Record of Interview of Witness Lon Seng, 11 December 2013, ERN 00975227, A6.

<sup>803</sup> **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055488, A161-A164; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207328, A101; **D114/210**, Written Record of Interview of Witness Khan Vong, 23 May 2016, ERN 01307857, A26.

<sup>804</sup> **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055488, A161-A164; **D114/25**, Written Record of Interview of Civil Party Applicant Ou Dav, 3 November 2014, ERN 01055489, A26; **D114/94**, Written Record of Interview of Civil Party Applicant Vuthy Sam, 22 July 2015, ERN 01055490, A26.



loyalty, they could either be returned to their original unit or kept in the labour force.<sup>805</sup>

Otherwise, they would be sent to a prison or be directly executed.<sup>806</sup>

### 5.6.2.3 *Killings*

282. A large number of soldiers were arrested and killed; many disappeared and were never seen again.<sup>807</sup> The killings were committed in the Kampong Som area, including at Toek Sap, or in S-21.<sup>808</sup> In some cases, **Meas Muth** later announced that certain commanders were traitors<sup>809</sup> and even read or played their confessions.<sup>810</sup>

#### *Division 164 soldiers sent to S-21*

283. The OCIJ S-21 List indicates the minimum numbers of those arrested and killed:

- i. between 7 May 1976 and 14 July 1978, the earliest and latest known dates of entry of a Division 164 person to S-21 (both dates inclusive), 57 people from

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01134946, A91-A95; **D114/178**, Written Record of Interview of Witness Im Sokhan, 24 February 2016, ERN 01226277-01226278, A25-A26.

<sup>805</sup> **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977537, A41; **D54/32**, Written Record of Interview of Witness Soem Ny, 8 November 2013, ERN 00974922, A17; **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975218, A11; **D114/178**, Written Record of Interview of Witness Im Sokhan, 24 February 2016, ERN 01226276, A17; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246903, A162.

<sup>806</sup> **D54/120**, Written Record of Interview of Witness Prom Kem, 18 August 2014, ERN 01151111, A3; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115934, A37; **D114/178**, Written Record of Interview of Witness Im Sokhan, 24 February 2016, ERN 01226278, A27.

<sup>807</sup> **D54/20**, Written Record of Interview of Witness Sam Saom, 19 August 2013, ERN 00977295, A14; **D54/106**, Written Record of Interview of Witness Sann Kan, 10 June 2014, ERN 01044932-01044933 A73-A75; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115931-01115932, A15-A17; **D114/120**, Written Record of Interview of Witness Oum It, 9 September 2015, ERN 01168297-01168298, A16, ERN 01168301, A28; **D114/58**, Written Record of Interview of Witness Som Saom, 20 March 2015, ERN 01089948, A37; **D114/93**, Written Record of Interview of Witness Him Houy, 21 July 2015, ERN 01134918-01134920, A5-A10; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178900, A5-A8; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184824-01184826, A64-A67, A72-A78; **D54/36**, Written Record of Interview of Witness Prak Sokha, 13 November 2013, ERN 00977303, A34; **D114/120**, Written Record of Interview of Witness Oum It, 9 September 2015, ERN 01168302, A30-A31. *See also* **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111728, A1; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056660, A19-A20.

<sup>808</sup> *See Toek Sap Security Centre*, paras 411, 421-424, *Division 164 soldiers sent to S-21*, para. 283. *See also* **D114/58**, Written Record of Interview of Witness Som Saom, 20 March 2015, ERN 01089948-01089949, A36-A39, A42; **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148799, A53-A54; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168402-01168403, A28-A32.

<sup>809</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977254, A28-A32; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001469-01001470, A1-A2; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128189, A63. *See also* **D114/178**, Written Record of Interview of Witness Im Sokhan, 24 February 2016, ERN 01226274, A8-A9.

<sup>810</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, 01001469-01001470, A1-A2; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128189, A56-A63; **D54/40**, Written Record of Interview of Witness Pen Vy, 6 December 2013, ERN 00976890, A23-A25.





Khmer Chinese interpreters/translators, including several from Stung Hav, were transferred to S-21 via Kampong Som Port (in addition to eight translators/interpreters sent from Division 164),<sup>816</sup> with the conclusion being that those 200 were sent to S-21 on **Meas Muth**'s orders.

*Division 164 soldiers killed in the Kampong Som area*

285. Soldiers were also killed in Kampong Som in areas under control of Division 164 for work failures and for being considered enemies, including at Stung Hav and Ream Area worksites,<sup>817</sup> Toek Sap,<sup>818</sup> and villages and communes.<sup>819</sup>

286. Witnesses described two situations where **Meas Muth** became personally involved. In one incident, **Meas Muth** observed a soldier who was playfully throwing rocks into the woods and immediately beat the soldier, to the point of rendering him unconscious.<sup>820</sup> On another occasion, while inspecting a military construction project, a building's roof was not as he wanted it, so he grabbed an axe and slashed the construction supervisor's forehead.<sup>821</sup> When his subordinates wanted to take him to hospital, **Meas Muth** warned them not to or they would suffer the same fate.<sup>822</sup>

*Charged crime sites*

287. Purged Division 164 cadres were sent to locations which have been charged separately in this Closing Order. With the exception of four sent to Toek Sap (who are included in

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9969-9971, ERN 01222754, n. 10247, ERN 01222769, n. 10603, ERN 01222797, nn. 11332, 11335, ERN 01222807, nn. 11558-11566, ERN 01222818, nn. 11859-11861, ERN 01222819, nn. 11862-11864, ERN 01222820, nn. 11882-11884, ERN 01222841, n. 12468, ERN 01222850, nn. 12698-12699, ERN 01222875, nn. 13333, 13343, ERN 01222876, n. 13373, ERN 01222877, nn. 13395, 13405, ERN 01222916, n. 14439.

<sup>816</sup> Division 164: D114/230.1.1, OCIJ S-21 Prisoner List, 4 July 2016, ERN 01222567, n. 6095, ERN 01222710, n. 9295, ERN 01222729, nn. 9724-9727, ERN 01222753, n. 10233, ERN 01222830, n. 12218. Via Kampong Som Port: D114/230.1.1, OCIJ S-21 Prisoner List, 4 July 2016, ERN 01222684, nn. 8734, 8735, ERN 01222736, n. 9879, ERN 01222737, n. 9880, ERN 01222753, nn. 10228-10232, 10234.

<sup>817</sup> See *Kang Keng and Bet Trang (Ream Area) Worksites*, para. 352, *Stung Hav Worksites*, para. 396.

<sup>818</sup> See *Toek Sap Security Centre*, paras 411, 421-424. **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079222, A10; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235040, A17, ERN 01235042-01235043, A24.

<sup>819</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673-01056674, A117, A125; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050325, A123-A128; **D114/226**, Written Record of Interview of Witness Hav Kim, 29 June 2016, ERN 01479274 A102, ERN 01479275, A105.

<sup>820</sup> **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053542, A24-A25.

<sup>821</sup> **D54/30.1**, DC-Cam Statement of Soem Ny, 22 May 2011, ERN 01070553-01070554, as confirmed in **D54/37**, Written Record of Interview of Witness Soem Ny, 13 November 2013, ERN 00969993-00969994, A6-A10, ERN 00969995, A23-A25.

<sup>822</sup> **D54/30.1**, DC-Cam Statement of Soem Ny, 22 May 2011, ERN 01070558-01070559, as confirmed in **D54/37**, Written Record of Interview of Witness Soem Ny, 13 November 2013, ERN 00969993, A6-A10.



the victim numbers for that site), it is impossible to distinguish the identities of victims as Division 164 soldiers among the victims at those crime sites.<sup>823</sup>

*Sites in villages and communes not separately charged*

288. Witnesses and civil party applicants identified various sites in and around Kampong Som – other than those separately charged – used by Division 164 for the killing of its own soldiers.<sup>824</sup>

289. In early 1978, one witness was arrested and imprisoned in Andoung Thma Cooperative, where he remained until the Vietnamese arrived. He was assigned to work in a mobile unit and detained for about one year; he recalls that every night a few prisoners were killed there.<sup>825</sup> Taking a minimum number per night of two prisoners, due to a lack of a higher minimum specification by the witness, allowing for the first month of 1978 to be discounted, since the witness states he was arrested on 1 February 1978 and there for “about one year”, and finally using the average year in statistical terms of 360 days, this results in a calculation of 660 persons killed (2 x 330).

290. In 1979, one witness saw the remains of a “*great number*” of DK soldiers in and around Smach Daeng and in the surrounding areas.<sup>826</sup> He explained that this was not a battlefield area but rather a killing site for soldiers in Smach Daeng.<sup>827</sup>

291. Ten Yin’s husband, Kuo Bun, served in an artillery unit of Division 164 at Stung Hav and on the islands.<sup>828</sup> He was allegedly killed on a boat in the area of Ou Kach.<sup>829</sup> Ten Yin was however told that her husband was killed at the foot of Ou Kach Mountain. She immediately went to Ou Kach, which is located between three and four kilometres

<sup>823</sup> **D54/27**, Written Record of Interview of Witness Pak Sok, 22 October 2013, ERN 00977845-00977846, A6; **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182-01025183, A3-A7; **D54/20**, Written Record of Interview of Witness Sam Saom, 19 August 2013, ERN 00977293-00977294, A7-A9; **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118158, A2-A5; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128197, A207; *contra* **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170536-01170537, A90-A97. *See otherwise Kang Keng and Bet Trang (Ream Area) Worksites*, para. 339, *Stung Hav Worksites*, para. 364, *Toek Sap Security Centre*, para. 411.

<sup>824</sup> *See e.g.* **D114/25**, Written Record of Interview of Civil Party Applicant Ou Dav, 3 November 2014, ERN 01055688, A20, ERN 01055691-01055692, A31-A33.

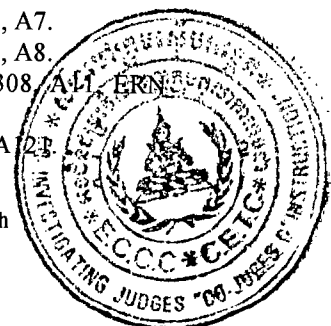
<sup>825</sup> **D114/226**, Written Record of Interview of Witness Hav Kim, 29 June 2016, ERN 01479274, A102, ERN 01479275, A105, A109, ERN 01479276, A114-A116, ERN 01479283, A166, ERN 01479284, A169.

<sup>826</sup> **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111730, A7.

<sup>827</sup> **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111730, A8.

<sup>828</sup> **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050308, A1, ERN 01050326-001050327, A137-A139, ERN 01050328, A148.

<sup>829</sup> **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050324, A 2E.





from her village of Pou Thoeung and found about 10 corpses, among which she recognised her husband as she could see his face clearly.<sup>830</sup>

### 5.6.3 Purges of Divisions 502, 310, and 117

#### 5.6.3.1 Location, operations and structure of Divisions 502, 310, and 117

##### *Division 502*

292. As of April 1975, Division 502 had been established and was commanded by Sou Met (“*Brother 65*”),<sup>831</sup> a position he held throughout DK.<sup>832</sup> The Division constituted the CPK's Air Force,<sup>833</sup> with forces stationed at Pochentong Airport (Phnom Penh), as well as other airports, such as Siem Reap, Kampong Chhnang, Kampong Som (Kang Keng), Kampong Cham, and Battambang.<sup>834</sup> Lvey was Deputy Commander and in charge of Kampong Chhnang Airport, with Phal in charge of logistics.<sup>835</sup>

293. Soldiers from other units were transferred into Division 502 as part of the reorganisation of the military at an assembly celebrating the anniversary of 17 April 1975,<sup>836</sup> and by late 1976 or early 1977, Division 11 (later 605) had been dissolved and

<sup>830</sup> **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050323, A115, ERN 01050324, A121, ERN 01050325, A123-A124, A126, ERN 01050331, A167.

<sup>831</sup> **D4.1.242**, Written Record of Interview of Witness Phann Pich, 22 September 2008, ERN 00231406.

<sup>832</sup> Alternative spellings: Sou Samet, Sou/Ta Meth. **D4.1.513**, Written Record of Interview of Witness Khin Vat, 6 April 2009, ERN 00315913; **D55/7**, Written Record of Interview of Witness Pich Daree, 10 May 2013, ERN 00944458, A1-A2; **D4.1.841**, Written Record of Interview of Witness Sokh Chhay, 27 October 2009, ERN 00404291; **D55/4**, Written Record of Interview of Witness Ung Ren, 7 May 2013, ERN 00944451-00944452, A54-A56; **D2/2**, Written Record of Interview of Witness Ou Leang, 13 July 2010, ERN 00590273, A13-A15; **D2/18**, Written Record of Interview of Witness Sreng Thi, 1 December 2010, ERN 00630433, A24-A25, A28; **D114/273**, Written Record of Interview of Witness Ou Leang, 1 November 2016, ERN 01373244, A64; **D4.1.845**, Written Record of Interview of Witness Lonh Dos, 20 November 2009, ERN 00407792, A45-A46; **D55/6**, Written Record of Interview of Witness Chin Kimthong, 9 May 2013, ERN 00943561, A1. *See contra* **D4.1.1056**, Written Record of Interview of Witness Chuon Thi, 2 March 2010, ERN 00513313, A3 (Sou Met became commander in early 1976).

<sup>833</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246910, A248; **D4.1.845**, Written Record of Interview of Witness Lonh Dos, 20 November 2009, ERN 00407789-00407790, A24-A25; **D55/4**, Written Record of Interview of Witness Ung Ren, 7 May 2013, ERN 00944452, A58; **D4.1.854**, Written Record of Interview of Witness Seng Mon, 22 July 2009, ERN 00359932, ERN 00359934.

<sup>834</sup> **D4.1.845**, Written Record of Interview of Witness Lonh Dos, 20 November 2009, ERN 00407790, A25; **D55/4**, Written Record of Interview of Witness Ung Ren, 7 May 2013, ERN 00944452, A61; **D4.1.854**, Written Record of Interview of Witness Seng Mon, 22 July 2009, ERN 00359932.

<sup>835</sup> **D4.1.510**, Written Record of Interview of Witness Sreng Thi, 7 March 2009, ERN 00293009; **D54/51**, Written Record of Interview of Witness Meas Voeun, 15 January 2014, ERN 00978407, A3; **D114/148**, Written Record of Interview of Witness Pich Daree, 17 December 2015, ERN 01207245, A59; **D4.1.508**, Written Record of Interview of Witness Chan Man, 4 March 2009, ERN 00292822; **D4.1.503**, Written Record of Interview of Witness Loeung Kimchhong, 11 February 2009, ERN 00290657. *See also* **D4.1.504**, Written Record of Interview of Witness Kev Kin, 12 February 2009, ERN 00290501.

<sup>836</sup> **D54/51**, Written Record of Interview of Witness Meas Voeun, 15 January 2014, ERN 00978407, A9.



merged into Division 502, around the same time that Ta Saom, Division 11's Commander, and others, were arrested.<sup>837</sup> Division 12 (later 703) also merged into Division 502,<sup>838</sup> while members of Division 170 were also incorporated into Division 502 during 1976.<sup>839</sup> In addition to Division 310 members sent to work at Kampong Chhnang Airport worksite under Division 502,<sup>840</sup> others were transferred into the Division itself.<sup>841</sup>

294. Division 502 was composed of at least two Regiments, 51 and 52, it being unclear whether three battalions that feature in witness testimony (531, 532, and 533) were independent or under a third regiment: while the numbering suggests they would have been under a Regiment 53, CPK statistics do not detail a Regiment 53, listing the battalions separately, and witness testimony is inconclusive on the point.<sup>842</sup> Battalion 531 was responsible for general airport services and maintenance; Battalion 532 was responsible for aircraft mechanics and weaponry and based at Pochentong Airport; Battalion 533, responsible for "*piloting affairs*" and assigning pilots, was also stationed

<sup>837</sup> **D114/199**, Written Record of Interview of Witness Sreng Thi, 7 April 2016, ERN 01300061, A27, ERN 01300062, A37, ERN 01300063, A42-A47; **D2/2**, Written Record of Interview of Witness Ou Leang, 13 July 2010, ERN 00590273, A12; **D114/273.1**, DC-Cam Statement of Ou Leang, 17 September 2004, ERN 01392827-01392829, as confirmed in **D114/273**, Written Record of Interview of Witness Ou Leang, 1 November 2016, ERN 01373241, A6-A7; **D2/18**, Written Record of Interview of Witness Sreng Thi, 1 December 2010, ERN 00630434, A31.

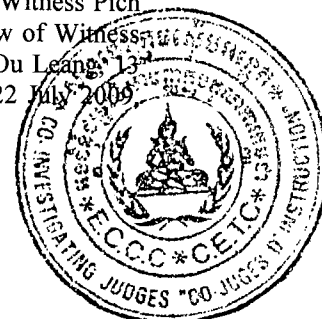
<sup>838</sup> **D2/18**, Written Record of Interview of Witness Sreng Thi, 1 December 2010, ERN 00630434, A31; **D4.1.837**, Written Record of Interview of Witness Hen Sophal, 31 August 2009, ERN 00374046; **D234/2.1.107**, Transcript of Hearing on the Substance in Case 002/02 [Nhem En], 19 April 2016, ERN 01248943-01248944.

<sup>839</sup> **D45**, Written Record of Interview of Civil Party Applicant Thorng Channa, 6 April 2012, ERN 00802845-00802846.

<sup>840</sup> See para. 308.

<sup>841</sup> **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184791, A120; **D46**, Written Record of Interview of Civil Party Applicant Che Heap, 6 April 2012, ERN 00804117. See also **D10.1.71**, Sou Met's letter to Duch entitled "Dear beloved brother Kaing Guek Eav alias Duch", 4 October 1977, ERN 00178070.

<sup>842</sup> **D1.3.5.19**, List of Forces in April 1976, 27 April 1976, ERN 00509701; **D1.3.5.21**, List of Forces in October 1976, 25 October 1976, ERN 00233924; **D1.3.30.6**, DK Military Report entitled "Second General Staff Study Session", 23 November 1976, ERN 00195326-00195327; **D55/7**, Written Record of Interview of Witness Pich Daree, 10 May 2013, ERN 00944460, Investigator's Note; **D4.1.242**, Written Record of Interview of Witness Phann Pich, 22 September 2008, ERN 00231406; **D2/2**, Written Record of Interview of Witness Ou Leang, 13 July 2010, ERN 00590273, A17; **D4.1.854**, Written Record of Interview of Witness Seng Mon, 22 July 2009, ERN 00359934.



at Pochentong Airport.<sup>843</sup> According to CPK statistics, in April and October 1976 and March 1977, Division 502 numbered approximately 5,500 personnel.<sup>844</sup>

### *Division 310*

295. Following the capture of Phnom Penh in April 1975, Division 310 units were stationed in Phnom Penh near Wat Phnom,<sup>845</sup> Tuol Kouk,<sup>846</sup> and Chroy Changwar Bridge.<sup>847</sup> The Division Headquarters were located north of present-day Kuntheak Bopha Hospital.<sup>848</sup> Division 310 was commanded by Oeun,<sup>849</sup> with witnesses referring to Yan, Kim and Voeung as Deputy Commander and Member.<sup>850</sup>

<sup>843</sup> **D2/2**, Written Record of Interview of Witness Ou Leang, 13 July 2010, ERN 00590274, A17; **D4.1.841**, Written Record of Interview of Witness Sokh Chhay, 27 October 2009, ERN 00404292-00404293; **D4.1.854**, Written Record of Interview of Witness Seng Mon, 22 July 2009, ERN 00359933-00359934; **D4.1.601**, Written Record of Interview of Witness Seng Mon, 14 February 2009, ERN 00288621; **D4.1.242**, Written Record of Interview of Witness Phann Pich, 22 September 2008, ERN 00231404, ERN 00231406.

<sup>844</sup> **D1.3.30.9**, DK Military Report re Overall Force Statistics for Army entitled Joint Statistics of Armed Forces, 7 April 1977, ERN 00183956; **D1.3.5.19**, List of Forces in April 1976, 27 April 1976, ERN 00509701; **D1.3.5.21**, List of Forces in October 1976, 25 October 1976, ERN 00233924. *See also* **D55/7**, Written Record of Interview of Witness Pich Daree, 10 May 2013, ERN 00944461, A22 (estimated 7,000).

<sup>845</sup> **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278681-00278682; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246894-01246895, A15-A24; **D1.3.27.21**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 11 November 1976, ERN 00876991.

<sup>846</sup> Alternative spellings: Tuol Kouk, Kok, Kork and Kauk. **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278681-00278682; **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223335; **D114/268**, Written Record of Interview of Witness Souy Sao, 11 October 2016, ERN 01479474, A10-A11; **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184800, A7-A8, A11; **D2/3**, Written Record of Interview of Witness Nop Hat alias Ly Hat, 20 July 2010, ERN 00590268, A21; **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978; **D1.3.27.21**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 11 November 1976, ERN 00876991.

<sup>847</sup> **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278681-00278682.

<sup>848</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246895, A24-A31.

<sup>849</sup> Alternative spellings: Euan, Oeurn, and Ouen. **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184771, A1, ERN 01184772, A6-A7; **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184800, A7-A8, ERN 01184801, A14; **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223335; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246895, A25; **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475925-01475926, A2, ERN 01475927, A13; **D114/268**, Written Record of Interview of Witness Souy Sao, 11 October 2016, ERN 0149474, A10-A13; **D2/3**, Written Record of Interview of Witness Nop Hat alias Ly Hat, 20 July 2010, ERN 00590267, A13; **D228/1.1.1**, Written Record of Interview of Witness Tuon Sim, 4 April 2016, ERN 01235801, A1, ERN 01235802, A10; **D4.1.1150**, Written Record of Interview of Witness Lay Ean, 4 March 2008, ERN 00205007-00205008; **D4.1.509**, Written Record of Interview of Witness Khoem Samhuon, 6 March 2009, ERN 00293364; **D114/196**, Written Record of Interview of Witness Tuon Sim, 4 April 2016, ERN 01238029, A1, ERN 01238030, A5.

<sup>850</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246895, A24-A26; **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475927, A11, A13; **D114/255**, Written Record of Interview of Witness Van Veng, 14 September 2016, ERN 01475987, A11, ERN 01235802, A10; **D228/1.1.1**, Written Record of Interview of Witness Tuon Sim, 4 April 2016, ERN 01235801, A1, ERN 01235802, A10; **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223335; **D4.1.509**, Written Record of Interview of Witness Khoem Samhuon, 6 March 2009, ERN 00293364.



296. The Division consisted of three regiments (each having three battalions, with three companies to a battalion, three platoons to a company, and three squads of 12 to a platoon):<sup>851</sup> Regiment 11, commanded by Voeung with Chhan as Deputy;<sup>852</sup> Regiment 12, commanded by Pheng;<sup>853</sup> and a third Regiment, commanded by Song, with Chet as Deputy.<sup>854</sup> In addition to the regular structure, there was, *inter alia*, special Battalion 312,<sup>855</sup> logistics Battalion 314,<sup>856</sup> and the independent K-4 Disabilities Unit, assigned to farm rice.<sup>857</sup> A platoon of Battalion 32, itself under the third Regiment commanded by Song, guarded the Division's prison, also run by Song.<sup>858</sup>
297. The CPK's statistics indicate that Division 310 numbered over 6,000 personnel in March and June 1977, almost all of whom were soldiers, making it the second largest CPK division.<sup>859</sup> The majority of Division 310 personnel were from the North Zone.<sup>860</sup>

**D114/196**, Written Record of Interview of Witness Tuon Sim, 4 April 2016, ERN 01238029, A1-A2, ERN 01238030, A7.

<sup>851</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246895, A24, A27-A28; **D114/259**, Written Record of Interview of Witness Keo Loeu, 19 September 2016, ERN 01476010, A36; **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184771, A1, ERN 01184773-01184774, A15-A16; **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475926, A5-A6, A10; **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184800, A7-A8, ERN 01184804-00184805, A30-A33.

<sup>852</sup> **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184800, A7-A8, ERN 01184801, A14; **D114/268**, Written Record of Interview of Witness Souy Sao, 11 October 2016, ERN 0149474, A10, ERN 0149475, A20-A22.

<sup>853</sup> **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475926, A4-A7; **D1.3.30.5**, DK Military Report, 20 October 1976, ERN 00897650.

<sup>854</sup> **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184771, A1, ERN 01184772, A9; ERN 01184775-01184776, A29-A32; **D114/259**, Written Record of Interview of Witness Keo Loeu, 19 September 2016, ERN 01476010, A36.

<sup>855</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246895, A24, A27-A28; **D4.1.1014**, DK Military Report from Division 310, Political Section, 26 May 1976, ERN 00525763, para. 7.

<sup>856</sup> **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978.

<sup>857</sup> **D114/259**, Written Record of Interview of Witness Keo Loeu, 19 September 2016, ERN 01476009-01476010, A13-A17, A27-A28, A34; **D1.3.32.18**, DC-Cam Statement Summary of Keo Loeu, 15 February 2005, ERN 00183601; **D4.1.505**, Written Record of Interview of Witness Sum Sokhan, 13 February 2009, ERN 00292864.

<sup>858</sup> **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184773, A14, ERN 01184775, A22-A26; **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278681, ERN 00278683.

<sup>859</sup> **D1.3.30.9**, Joint Statistics of Armed Forces – March 1977, 7 April 1977, ERN 00183956; **D1.3.12.19**, Statistics of National Army, Division 310, 13 June 1977, ERN 00655683.

<sup>860</sup> **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184772, A14, ERN 01184774-01184775, A22-A26.



*Division 117*

298. By late 1977, Division 117 was stationed in Kratie Province, with its headquarters at Kat Dai Village, in Snuol District, and another office at Krakor Bridge, to the north of Kratie.<sup>861</sup> It was commanded by Rom<sup>862</sup> (a relative of **Meas Muth**)<sup>863</sup> until his arrest in late 1978.<sup>864</sup> Leang was the deputy; although there is sporadic evidence that it was the other way round, the majority of the evidence bears out that Leang was the deputy.<sup>865</sup>

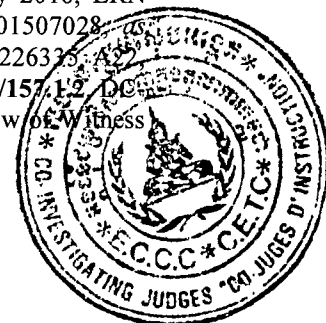
<sup>861</sup> Stationed at or transferred to Kratie by late 1977: **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076743-01076744, A1-A2, ERN 01076744, A4, A6; **D114/192**, Written Record of Interview of Witness Chen Phat, 1 April 2016, ERN 01226334, A16-A20. *See also* **D114/191**, Written Record of Interview of Witness Sao So, 31 March 2016, ERN 01238019, A9-A13; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982723, A2, ERN 00982724, A5. Headquarters: **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076746, A23. *See also* **D114/192**, Written Record of Interview of Witness Chen Phat, 1 April 2016, ERN 01226335, A24; **D114/191**, Written Record of Interview of Witness Sao So, 31 March 2016, ERN 01238019, A11-A12. Office: **D54/60.2**, DC-Cam Statement of Moeng Vet, 13 August 2013, ERN 01212294-01212295, *as confirmed in* **D114/297.1.22**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 26 July 2016, ERN 01346554, lines 23-25, ERN 01346555, lines 1, 12-15.

<sup>862</sup> Alternate spellings: Khun Sarom, Sarom, Khun Rom, Khun Rum, Rum. **D114/191**, Written Record of Interview of Witness Sao So, 31 March 2016, ERN 01238019-01238020, A13-A14; **D114/101**, Written Record of Interview of Witness Em Sarin, 6 August 2015, ERN 01142601, A1; **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076752, A50; **D114/204**, Written Record of Interview of Witness Suos Siyat, 3 May 2016, ERN 01305909, A47.

<sup>863</sup> **D114/170**, Written Record of Interview of Witness Prum Mon, 15 February 2016, ERN 01212899, ERN 01212901, A19-A21; **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076752, A50; **D54/60.2**, DC-Cam Statement of Moeng Vet, 13 August 2013, ERN 01212289-0121290. *See also* **D59/2/4.16a**, DC-Cam Statement of Seng Soeun, 11 February 2006, ERN 00753845, *as confirmed in* **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01237988-01237989, A29-A30. *See contra* **D114/216**, Written Record of Interview of Witness Meas Im, 11 June 2016, ERN 01337012-01337013, A49-A54.

<sup>864</sup> **D114/157.1.1**, DC-Cam Statement of Chhuon Nhean and Reang Sophai, 8 April 2012, ERN 01505784; **D114/157.1.3**, DC-Cam Statement of Chen Phat, 20 May 2012, ERN 01507019-01507020, ERN 01507028-01507029, *as confirmed in* **D114/192**, Written Record of Interview of Witness Chen Phat, 1 April 2016, ERN 01226334, A16, A20, ERN 01226335, A22, A26; **D114/170**, Written Record of Interview of Witness Prum Mon, 15 February 2016, ERN 01212899, ERN 01212901, A19-A20; **D114/157.1.4**, DC-Cam Statement of Hao Ao, 27 June 2012, ERN 01507107; **D114/297.1.22**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 26 July 2016, ERN 01346554, lines 19-25, ERN 01346555, lines 1, 10-11, ERN 01346557, lines 11-17; **D54/60.2**, DC-Cam Statement of Moeng Vet, 13 August 2013, ERN 01212288-01212289; **D114/204**, Written Record of Interview of Witness Suos Siyat, 3 May 2016, ERN 01305908-01305909, A32, A38-A49; **D114/210**, Written Record of Interview of Witness Vong Khan, 23 May 2016, ERN 01307857, A30-A32; **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076744, A6; **D114/157.1.5**, DC-Cam Statement of Yous Phatt, 28 March 2012, ERN 01505815. *See also* **D4.1.313**, DK-Military Telegram by Rom entitled Telegram 06, 2 March 1978, ERN 00795287-00795288. *See paras* 316-317 below regarding Rom's arrest.

<sup>865</sup> **D114/297.1.22**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 26 July 2016, ERN 01346557, lines 11-17; **D114/204**, Written Record of Interview of Witness Suos Siyat, 3 May 2016, ERN 01305909, A47-A49; **D114/157.1.3**, DC-Cam Statement of Chen Phat, 20 May 2012, ERN 01507028, *confirmed in* **D114/192**, Written Record of Interview of Witness Chen Phat, 1 April 2016, ERN 01226335, A25, ERN 01226336, A34 (using alternative spelling Lieng). For Rom being the deputy, *see* **D114/157.1.2**, DC-Cam Statement of Sao Sau, 20 May 2012, ERN 01506963; **D114/190**, Written Record of Interview of Witness Hor Or, 30 March 2016, ERN 01238005, A31.





former East Zone Secretary Sao Phim was accused of aiding the Vietnamese.<sup>873</sup> Others transferred included former members of Divisions 11, 310, and 450;<sup>874</sup> and approximately 125 of the total number sent to S-21 were low level cadres.<sup>875</sup>

301. The OCIJ S-21 List indicates the minimum numbers of those arrested and killed:

- i. between February 1976 and 28 December 1978 (inclusive), the last known date of entry of a Division 502 person,<sup>876</sup> 343 people from Division 502 entered S-21;<sup>877</sup> and

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ERN 01222547, n. 5579, ERN 01222591, n. 6647, ERN 01222620, nn. 7342, 7357, ERN 01222637, n. 7701, ERN 01222664, n. 8302, ERN 01222689, n. 8835, ERN 01222769, n. 10597, ERN 01222775, n. 10736, ERN 01222889, n. 13641, ERN 01222898, nn. 13864, 13866-13868. *See also* **D2/18**, Written Record of Interview of Witness Sreng Thi, 1 December 2010, ERN 00630434, A31. 28 December 1978: D114/230.1.1, OCIJ S-21 Prisoners List, 4 July 2016 (filing date), ERN 01222853, n. 12786. *See* regarding Division 170 being from the East Zone, **D4.1.845**, Written Record of Interview of Witness Lonh Dos, 20 November 2009, ERN 00407789, A24; **D45**, Written Record of Interview of Civil Party Applicant Thorng Channa, 6 April 2012, ERN 00802845; **D114/165**, Written Record of Interview of Witness Prak Khan, 2 February 2016, ERN 01219847, A33; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246896, A48, ERN 01246910, A238.

<sup>873</sup> *See Purge of Division 164*, para. 273.

<sup>874</sup> **D114/230.1.1**, OCIJ S-21 Prisoners List, 4 July 2016 (filing date): former Division 11: ERN 01222348, n. 418, ERN 01222383, n. 1239, ERN 01222454, nn. 3268-3269, ERN 01222455, nn. 3274, 3276, ERN 01222492, nn. 4204, 4208, ERN 01222493, n. 4209, ERN 01222495, nn. 4259-4262, ERN 01222496, nn. 4266, 4270, ERN 01222498, nn. 4326, 4329, ERN 01222499, n. 4342, ERN 01222557, n. 5833, ERN 01222853, n. 12767, ERN 01222874, n. 13328; former Division 310: ERN 01222491, nn. 4200-4201, ERN 01222492, nn. 4202, 4205, 4207, ERN 01222493, n. 4211-4215, 4217, 4220, 4222, ERN 01222496, n. 4265; former Division 450: ERN 01222413, n. 1944, ERN 01222492, n. 4203, ERN 01222493, nn. 4210, 4218-4219, ERN 01222555, n. 5805, ERN 01222929, nn. 14886-14888.

<sup>875</sup> **D114/230.1.1**, OCIJ S-21 Prisoners List, 4 July 2016 (filing date), ERN 01222338, nn. 211-212, ERN 01222339, nn. 217, 221-225, 228, 232, ERN 01222340, nn. 235-236, ERN 01222344, nn. 338-339, ERN 01222345, n. 353, ERN 01222346, nn. 365-366, 368-369, 380, ERN 01222347, nn. 387, 389, 391-392, ERN 01222348, n. 414, 422, 425, ERN 01222349, n. 427, ERN 01222351, n. 498, ERN 01222367, n. 859, ERN 01222394, n. 1474, ERN 01222402, nn. 1651-1653, ERN 01222406, n. 1765, ERN 01222410, n. 1866, ERN 01222411, n. 1889, ERN 01222413, n. 1955, ERN 01222420, n. 2133, ERN 01222421, nn. 2189-2193, 2198, ERN 01222422, nn. 2199-2200, 2204, ERN 01222425, nn. 2294-2295, 2298, ERN 01222437, nn. 2744-2748, ERN 01222438, nn. 2752-2755, 2757-2760, ERN 01222440, nn. 2830-2831, ERN 01222454, nn. 3268-3270, 3272, ERN 01222455, nn. 3274-3276, ERN 01222467, n. 3600, ERN 01222476, n. 3820, ERN 01222482, n. 3968, ERN 01222489, n. 4156, ERN 01222492, n. 4205, ERN 01222493, nn. 4212, 4223, ERN 01222495, nn. 4260-4261, ERN 01222496, nn. 4267-4269, ERN 01222497, nn. 4292-4293, ERN 01222498, n. 4329, ERN 01222499, nn. 4344-4345, ERN 01222502, n. 4422, ERN 01222537, n. 5316, ERN 01222543, n. 5468, ERN 01222545, nn. 5535-5536, ERN 01222547, n. 5579, ERN 01222552, n. 5710, ERN 01222556, nn. 5811, 5824, ERN 01222585, n. 6528, ERN 01222586, n. 6532, ERN 01222589, n. 6619, ERN 01222599, n. 6862, ERN 01222620, n. 7357, ERN 01222752, n. 10211, ERN 01222808, n. 11604, ERN 01222809, nn. 11605, 11609-11610, ERN 01222843, n. 12520, ERN 01222853, n. 12786, ERN 01222855, nn. 12848-12849, ERN 01222870, n. 13234, ERN 01222875, n. 13335, ERN 01222890, nn. 13646, 13651, ERN 01222893, n. 13731, ERN 01222894, n. 13747, ERN 01222898, nn. 13866-13868, ERN 01222913, n. 14340, ERN 01222929, nn. 14886-14888.

<sup>876</sup> **D114/230.1.1**, OCIJ S-21 Prisoners List, 4 July 2016 (filing date), ERN 01222853, n. 12786.

<sup>877</sup> **D114/230.1.1**, OCIJ S-21 Prisoners List, 4 July 2016 (filing date), ERN 01222338, nn. 206, 210-212, ERN 01222339, nn. 217, 219, 221-225, 228-232, ERN 01222340, nn. 235-236, ERN 01222341, n. 255, ERN 01222343, nn. 319-326, ERN 01222344, nn. 327-344, 346, ERN 01222345, nn. 347-364, ERN 01222346, nn. 365-369, 373-384, ERN 01222347, nn. 385-392, ERN 01222348, nn. 408-409, 414, 418, 422,



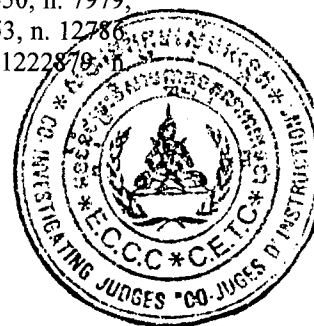
- ii. of those, the date of execution of 55 individuals is known;<sup>878</sup> the only reasonable conclusion for the remaining ones, however, is that they were also killed.<sup>879</sup>

302. In addition, in January 1977, 150 former East Zone soldiers from Division 502, who were based near Pochentong Airport, were transferred to a village to the west of Ta Khmao, to be “re-educated” through farming. Weekly “lifestyle meetings” were held and workers often had to make biographies. Over an unspecified period, many were taken away, with only 15 remaining. They were told that those who had disappeared had been “smashed” because they were “against the party” and that they would suffer

01222349, n. 427, ERN 01222351, n. 498, ERN 01222367, nn. 859, 863, ERN 01222375, n. 1075, ERN 01222383, n. 1239, ERN 01222388, n. 1343, ERN 01222389, n. 1363, ERN 01222394, n. 1474, ERN 01222397, n. 1548, ERN 01222402, nn. 1651-1653, 1655, ERN 01222405, n. 1756, ERN 01222406, n. 1765, ERN 01222407, n. 1786, ERN 01222410, n. 1866, ERN 01222411, n. 1889, ERN 01222412, n. 1924, ERN 01222413, nn. 1944, 1955, ERN 01222414, n. 1979, ERN 01222417, nn. 2053, 2062, ERN 01222420, n. 2133, ERN 01222421, nn. 2185-2186, 2189-2193, 2196, 2198, ERN 01222422, nn. 2199-2200, 2204, 2207, ERN 01222424, nn. 2275, 2277, ERN 01222425, nn. 2293-2295, 2298, ERN 01222427, nn. 2348, 2362, ERN 01222434, n. 2604, ERN 01222437, nn. 2735-2736, 2738, 2741-2748, 2750-2751, ERN 01222438, nn. 2752-2755, 2757-2761, ERN 01222440, nn. 2825, 2827-2831, ERN 01222454, nn. 3268-3270, 3272, ERN 01222455, nn. 3274-3276, ERN 01222467, n. 3600, ERN 01222476, n. 3820, ERN 01222478, nn. 3866, 3882, ERN 01222482, n. 3968, ERN 01222489, nn. 4155-4157, ERN 01222491, nn. 4200-4201, ERN 01222492, nn. 4202-4208, ERN 01222493, nn. 4209-4223, ERN 01222495, nn. 4258-4264, ERN 01222496, nn. 4265-4270, ERN 01222497, nn. 4290-4293, ERN 01222498, nn. 4326, 4329, ERN 01222499, nn. 4342, 4344-4346, ERN 01222502, n. 4422, ERN 01222512, nn. 4642-4643, 4645, ERN 01222513, n. 4651, ERN 01222516, nn. 4734, 4740, ERN 01222517, n. 4754, ERN 01222530, n. 5129, ERN 01222532, n. 5190, ERN 01222537, nn. 5316, 5335, ERN 01222539, n. 5382, ERN 01222540, n. 5385, ERN 01222543, n. 5468, ERN 01222545, nn. 5535-5536, ERN 01222547, n. 5579, ERN 01222552, n. 5710, ERN 01222555, n. 5805, ERN 01222556, nn. 5811, 5824, ERN 01222557, n. 5833, ERN 01222561, n. 5934, ERN 01222566, nn. 6067-6072, ERN 01222568, n. 6106, ERN 01222569, n. 6129, ERN 01222585, nn. 6528-6529, ERN 01222586, n. 6532, ERN 01222589, n. 6619, ERN 01222591, n. 6647, ERN 01222599, n. 6862, ERN 01222611, nn. 7157, 7167, ERN 01222620, nn. 7342, 7357, ERN 01222621, n. 7381, ERN 01222637, n. 7701, ERN 01222650, nn. 7975, 7979, ERN 01222657, n. 8147, ERN 01222660, n. 8213, ERN 01222663, n. 8283, 8287, ERN 01222664, n. 8302, ERN 01222689, n. 8835, ERN 01222706, nn. 9213-9217, ERN 01222748, n. 10127, ERN 01222752, n. 10211, ERN 01222757, n. 10319, ERN 01222769, n. 10597, ERN 01222771, n. 10635, ERN 01222772, n. 10662, ERN 01222775, n. 10736, ERN 01222786, n. 11061, ERN 01222788, n. 11088, ERN 01222808, nn. 11603-11604, ERN 01222809, nn. 11605-11610, 11612-11616, ERN 01222843, n. 12520, ERN 01222853, nn. 12767, 12786, ERN 01222855, nn. 12848-12849, ERN 01222858, n. 12930, ERN 01222867, n. 13159, ERN 01222870, nn. 13233-13234, ERN 01222873, n. 13297, ERN 01222874, n. 13328, ERN 01222875, n. 13335, ERN 01222876, n. 13374, ERN 01222879, n. 13438, ERN 01222889, n. 13641, ERN 01222890, nn. 13646, 13651, ERN 01222893, nn. 13721, 13731, ERN 01222894, n. 13747, ERN 01222898, nn. 13864, 13866-13868, ERN 01222913, n. 14340, ERN 01222921, n. 14607, ERN 01222922, n. 14647, ERN 01222923, n. 14693, ERN 01222929, nn. 14886-14888.

<sup>878</sup> **D114/230.1.1**, OCIJ S-21 Prisoners List, 4 July 2016 (filing date), ERN 01222388, n. 1343, ERN 01222394, n. 1474, ERN 01222413, n. 1955, ERN 01222417, nn. 2053, 2062, ERN 01222420, n. 2133, ERN 01222421, nn. 2186, 2189-2194, 2196, 2198, ERN 01222422, nn. 2199-2200, 2204, 2207, ERN 01222425, n. 2298, ERN 01222427, n. 2348, ERN 01222437, n. 2735, ERN 01222454, nn. 3268-3270, 3272, ERN 01222455, nn. 3274, 3276, ERN 01222476, n. 3820, ERN 01222530, n. 5129, ERN 01222537, n. 5316, ERN 01222543, n. 5468, ERN 01222552, n. 5710, ERN 01222566, nn. 6067, 6069, 6071-6072, ERN 01222585, n. 6529, ERN 01222586, n. 6532, ERN 01222589, n. 6619, ERN 01222599, n. 6862, ERN 01222611, n. 7167, ERN 01222650, n. 7979, ERN 01222663, n. 8283, ERN 01222706, nn. 9215, 9217, ERN 01222786, n. 11061, ERN 01222853, n. 12786, ERN 01222855, nn. 12848-12849, ERN 01222873, n. 13297, ERN 01222875, n. 13335, ERN 01222879, n. 13438, ERN 01222890, nn. 13646, 13651, ERN 01222893, n. 13731.

<sup>879</sup> See S-21 Security Centre, para. 167.





the same fate if they also were.<sup>880</sup> The conclusion must therefore be that those 135 who disappeared were killed.

### 5.6.3.3 Meas Muth's involvement in the purge of Division 502

303. There is no evidence of **Meas Muth's** direct involvement in the purge of Division 502.

### 5.6.3.4 Purge of Division 310

304. While arrests within Division 310 occurred as early as the end of 1975 and throughout 1976,<sup>881</sup> mass arrests began with that of Division Commander Oeun and other senior members of the Division. Oeun participated in CPK meetings as late as 21 November 1976,<sup>882</sup> and, based on the date of his entry to S-21 (19 February 1977)<sup>883</sup> and witness testimony,<sup>884</sup> he must have been arrested between those two dates. Oeun's arrest followed that of Koy Thuon alias Thuch (the North Zone Secretary prior to 17 April 1975)<sup>885</sup> who had implicated him.<sup>886</sup>

305. Shortly after Oeun's arrest, at least one meeting of Division 310 was held by Southwest Zone personnel at which attendees were told that Oeun had been arrested for being a

<sup>880</sup> **D45**, Written Record of Interview of Civil Party Applicant Thorng Channa, 6 April 2012, ERN 00802846-00802849.

<sup>881</sup> **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184780, A54, ERN 01184781, A60-A64; **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475927, A11-A12, ERN 0147928, A18; **D4.1.827**, Written Record of Interview of Witness Him Horn, 18 December 2009, ERN 00425236; **D114/257**, Written Record of Interview of Witness Seam Kao, 16 September 2016, ERN 01475999, A17-A22, ERN 01476001, A47-A49; **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222656, n. 8135.

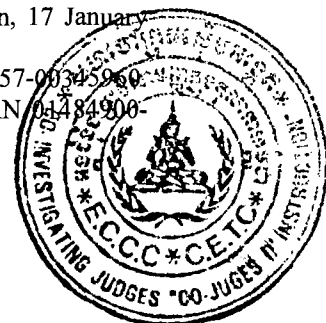
<sup>882</sup> **D1.3.27.22**, Note of Meeting Chief's Divisions about Production, Enemy Situation, and Name List of Chief's Division, 21 November 1976, ERN 00656379-00656380.

<sup>883</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222656, n. 8135.

<sup>884</sup> **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223335-00223336; **D4.1.511**, Written Record of Interview of Witness Sem Hoeun, 10 March 2009, ERN 00290515; **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978; **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184771, A1, ERN 01184776, A34; **D114/196**, Written Record of Interview of Witness Tuon Sim, 4 April 2016, ERN 01238029, A1-A2, ERN 01238031, A14; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246899, A102-A106, ERN 01246900, A110-A115. *See also* **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978.

<sup>885</sup> **D4.1.774**, Written Record of Interview of Witness Yoeun Sambau, 23 June 2009, ERN 00345957-00345960; **D98/1.2.18**, Transcript of Hearing on the Substance in Case 002 [Kaing Guek Eav alias Duch], 26 March 2012, ERN 00795096, lines 1-8; **D4.1.824**, Written Record of Interview of Witness Seng Srun, 9 December 2009, ERN 00423721-00423722, A1-A2; **D4.1.821**, Written Record of Interview of Witness Suon Kanil, 18 August 2009, ERN 00384425-00384426; **D4.1.1150**, Written Record of Interview of Witness Lay Ean, 4 March 2008, ERN 00205007-00205008. *See also* **D4.1.554**, Written Record of Interview of Witness Lay Ean, 17 January 2009, ERN 00278690.

<sup>886</sup> **D4.1.774**, Written Record of Interview of Witness Yoeun Sambau, 23 June 2009, ERN 00345957-00345960. *See also* **D114/258**, Written Record of Interview of Witness Lay Ean, 17 September 2016, ERN 01484900-01484901, A11-A12, ERN 01484903, A36.



traitor, and an audio-recording of his confession was played.<sup>887</sup> Witnesses also report being told to self-improve by not following traitors,<sup>888</sup> that they were subordinates of traitors and had to work hard to rebuild themselves,<sup>889</sup> or that they had committed no offence and would be spared.<sup>890</sup>

306. Son Sen also told attendees at a training course near Wat Phnom that Oeun had been arrested following his betrayal and that they should not panic but improve themselves, and then announced that Nha had been appointed as Division Commander.<sup>891</sup> The appointment of Nha, who was also from the Southwest Zone, is supported by some witnesses,<sup>892</sup> while others also state that Phan became Division Commander.<sup>893</sup> Nha was also later arrested, but no successor was appointed.<sup>894</sup>

307. Following Oeun's arrest, those in leadership positions down to at least company level were arrested,<sup>895</sup> including Deputy Commander or Member Voeung, Regiment

<sup>887</sup> **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223335-00223336; **D4.1.511**, Written Record of Interview of Witness Sem Hoeun, 10 March 2009, ERN 00290515; **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978; **D114/254**, Written Record of Interview of Witness Sin Soth, 13 September 2016, ERN 01479425, A20-A23, ERN 01479426, A36-A38; **D114/255**, Written Record of Interview of Witness Van Veng, 14 September 2016, ERN 01475982, A36-A44, ERN 01475983-01475984, A65-A74; **D114/257**, Written Record of Interview of Witness Seam Kao, 16 September 2016, ERN 01475999, A20-A22, ERN 01476000, A36, ERN 01476001-01476002, A54-A57; **D114/259**, Written Record of Interview of Witness Keo Loeu, 19 September 2016, ERN 01476009, A13, A17-A21, ERN 01476010, A38-A41; **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184802-01184803, A24, A26.

<sup>888</sup> **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978.

<sup>889</sup> **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184802-01184803, A24, A26.

<sup>890</sup> **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278681, ERN 00278684.

<sup>891</sup> **D4.1.774**, Written Record of Interview of Witness Yoeun Sambau, 23 June 2009, ERN 00345959-00345960.

<sup>892</sup> Alternative spelling: Nath, Nhan, and Nhor. **D114/259**, Written Record of Interview of Witness Keo Loeu, 19 September 2016, ERN 01476009, A13, A17-A21, ERN 01476011, A43-A45; **D114/268**, Written Record of Interview of Witness Souy Sao, 11 October 2016, ERN 01479474, A10, A14, A16-A17; **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978; **D4.1.511**, Written Record of Interview of Witness Sem Hoeun, 10 March 2009, ERN 00290515. *See also* **D4.1.1150**, Written Record of Interview of Witness Lay Ean, 4 March 2008, ERN 00205009.

<sup>893</sup> Alternative spelling: Pin. **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278681, ERN 00278684; **D114/258**, Written Record of Interview of Witness Lay Ean, 17 September 2016, ERN 01484900-01484901, A11-A12, ERN 01484907, A93-A98; **D114/257**, Written Record of Interview of Witness Seam Kao, 16 September 2016, ERN 01475999, A15-A22, ERN 01476003, A76-A77. *See also* **D4.1.554**, Written Record of Interview of Witness Lay Ean, 17 January 2009, ERN 00278690-00278691.

<sup>894</sup> **D114/268**, Written Record of Interview of Witness Souy Sao, 11 October 2016, ERN 01479474, A10, A14, A16-A17, ERN 01479476, A46-A47; **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222877, n. 13398.

<sup>895</sup> **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223335-00223336; **D4.1.511**, Written Record of Interview of Witness Sem Hoeun, 10 March 2009, ERN 00290514-00290515; **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184802-01184803, A24, A26, A28, ERN 01184804, A29; **D114/198**, Written Record of Interview of Witness Pin Sam, 18 April 2016, ERN 01246899, A102-A103, ERN 01246901, A127-A130, ERN 01246908, A278-A279.



Commander Song, and Deputy Chet, and Voeun (Oeun's wife and the Chairwoman of Division 310's hospital), the four of whom entered S-21 in February 1977.<sup>896</sup> Prim Koek, Voeung's wife, was sent to S-21 in March 1977.<sup>897</sup>

308. While ordinary soldiers and other lower level staff of Division 310 were also sent to S-21,<sup>898</sup> many, including hospital staff, were initially demobilised and sent for "tempering", often to farm rice, in areas north of Phnom Penh, at Boeng Pra Yab<sup>899</sup> (near Tuol Sangkae),<sup>900</sup> or Anlong Kangan,<sup>901</sup> with many later transferred to Kampong Chhnang, including the airport worksite.<sup>902</sup> A Battalion 17 was established, which was

**D114/257**, Written Record of Interview of Witness Seam Kao, 16 September 2016, ERN 01475999, A20-A22, ERN 01476000 A36, ERN 01476001, A48-A50; **D4.1.509**, Written Record of Interview of Witness Khoem Samhuon, 6 March 2009, ERN 00293365, ERN 00293366; **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978-00346979; **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184771, A1, ERN 01184776, A33-A34; **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278681, ERN 00278684.

<sup>896</sup> **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184776, A34; **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278681, ERN 00278684; **D4.1.509**, Written Record of Interview of Witness Khoem Samhuon, 6 March 2009, ERN 00293365, ERN 00293366; **D4.1.774**, Written Record of Interview of Witness Yoeun Sambau, 23 June 2009, ERN 00345957-00345959; **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222603, n. 6961, ERN 01222642, n. 7806, ERN 01222614, n. 7214, ERN 01222887, n. 13594.

<sup>897</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222433, n. 2543.

<sup>898</sup> **D1.3.28.55**, Chan's Report About Prisoners Intake on 31 October 1977, 1 November 1977, ERN 01408086-01408087; **D1.3.30.14**, DK Military Report entitled "Sent to Beloved Brother Duch", 26 March 1976, ERN 00233652-00233653. *See for example* **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222402, n. 1648, ERN 01222425, nn. 2301-2319.

<sup>899</sup> Alternative spellings: Beong Broyab, Boeng Brayab, Boeng Pa Yab, Boeung Bayab. **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246900, A117, ERN 01246901, A125-A127, ERN 01246902, A138, ERN 01246903, A153-A154; **D4.1.511**, Written Record of Interview of Witness Sem Hoeun, 10 March 2009, ERN 00290515; **D114/196**, Written Record of Interview of Witness Tuon Sim, 4 April 2016, ERN 01238029, A1, ERN 01238033, A30; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246899, A102-A103, ERN 01246901, A125-A127; **D4.1.509**, Written Record of Interview of Witness Khoem Samhuon, 6 March 2009, ERN 00293365, ERN 00293366; **D4.1.774**, Written Record of Interview of Witness Yoeun Sambau, 23 June 2009, ERN 00345957-00345960.

<sup>900</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246900, A117, ERN 01246901, A125-A127, ERN 01246902, A138, ERN 01246903, A153-A154; **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223335-00223336; **D114/258**, Written Record of Interview of Witness Lay Ean, 17 September 2016, ERN 01484900-01484901, A11-A12. *See also* **D228/1.1.1**, Written Record of Interview of Witness Tuon Sim, 4 April 2016, ERN 01235801, A1-A2, ERN 01235802, A11, ERN 01235805, A28-A29; **D4.1.554**, Written Record of Interview of Witness Lay Ean, 17 January 2009, ERN 00278690.

<sup>901</sup> Alternative spellings: Anlung Kngan, Anlong Kngan. **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475927-01475928, A16-A17; **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223335-00223336; **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184802-01184803, A24, A26; **D114/196**, Written Record of Interview of Witness Tuon Sim, 4 April 2016, ERN 01238029, A1, ERN 01238033, A30; **D114/259**, Written Record of Interview of Witness Keo Loeu, 19 September 2016, ERN 01476009, A13, A17-A21, ERN 01476011, A46.

<sup>902</sup> **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223335-00223336; **D4.1.511**, Written Record of Interview of Witness Sem Hoeun, 10 March 2009, ERN 00290515; **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184802-01184803, A24, A26; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246900, A117, ERN 01246901, A125-A127, ERN 01246902, A138, ERN 01246903, A161-A162, ERN 01246904, A175-A177;



based at Boeng Pra Yab/Tuol Sangkae, out of which people were arrested on a daily basis, with some also sent to Kampong Chhnang Airport.<sup>903</sup>

309. Subordinates of those arrested were told that they or their commanders were traitors,<sup>904</sup> and/or that they had to commit to work to demonstrate that they were not.<sup>905</sup> Biographies of at least some people were taken during tempering,<sup>906</sup> and those committing “*minor mistakes*” risked being sent to Prey Sar and those committing “*serious mistakes*” to S-21.<sup>907</sup> In addition to Oeun’s confession, that of Koy Thuon was played several times to those farming rice at Tuol Sangkae.<sup>908</sup>
310. Division 310 was dissolved or re-designated as Division 207 following Nha’s appointment as Commander, around the time the Division engaged with Vietnamese troops in 1977.<sup>909</sup> However, members were still sent to S-21.<sup>910</sup>

**D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475928-01475929, A20-A22, ERN 01475935, A67; **D4.1.509**, Written Record of Interview of Witness Khoem Samhuon, 6 March 2009, ERN 00293365-00293366; **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978-00346979; **D4.1.774**, Written Record of Interview of Witness Yoeun Sambau, 23 June 2009, ERN 00345957-00345960.

<sup>903</sup> **D4.1.774**, Written Record of Interview of Witness Yoeun Sambau, 23 June 2009, ERN 00345961; **D4.1.1150**, Written Record of Interview of Witness Lay Ean, 4 March 2008, ERN 00205008-00205009; **D114/258**, Written Record of Interview of Witness Lay Ean, 17 September 2016, ERN 01484901, A12-A14, A17; **D4.1.1151**, Written Record of Interview of Witness Prak Yoeun, 4 March 2008, ERN 00223336-00223337; **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475928, A20, ERN 01475932, A50, ERN 01475935, A66; **D1.3.32.16**, DC-Cam Statement of Him Hon alias Ream, 19 February 2004, ERN 00680645, ERN 00680656.

<sup>904</sup> **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184776, A34-A35; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246900, A117, ERN 01246901, A125-A127, ERN 01246902, A138, A143, ERN 01246903, A161-A165; **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475928-01475929, A20-A22, ERN 01475935, A67.

<sup>905</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246900, A117, ERN 01246901, A125-A127, ERN 01246902, A138, ERN 01246903, A161-A162.

<sup>906</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246900, A117, ERN 01246901, A125-A127, ERN 01246902, A138, A143, ERN 01246903-01246904, A161-A168; **D114/258**, Written Record of Interview of Witness Lay Ean, 17 September 2016, ERN 01484901, A12, A17, ERN 01484905, A72.

<sup>907</sup> **D114/259**, Written Record of Interview of Witness Keo Loeu, 19 September 2016, ERN 01476011, A43-A44.

<sup>908</sup> **D4.1.554**, Written Record of Interview of Witness Lay Ean, 17 January 2009, ERN 00278690; **D4.1.1150**, Written Record of Interview of Witness Lay Ean, 4 March 2008, ERN 00205007-00205009; **D114/258**, Written Record of Interview of Witness Lay Ean, 17 September 2016, ERN 01484903, A36-A37.

<sup>909</sup> **D114/258**, Written Record of Interview of Witness Lay Ean, 17 September 2016, ERN 01484900-01484901, A11-A12, ERN 01484907, A90-A96; **D114/255**, Written Record of Interview of Witness Van Veng, 14 September 2016, ERN 01475982, A35-A40, ERN 01475983, A59-A61, ERN 01475984-01475985, A83-A84.

**D114/257**, Written Record of Interview of Witness Seam Kao, 16 September 2016, ERN 01475999, A18-A22; ERN 01476002, A60-A61; **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475927-01475928, A15-A16.

<sup>910</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222850, nn. 12706-127



*Involvement of Southwest Zone and Division 502 personnel*

311. Unit commanders arrested from Division 310/207 were invariably replaced by Southwest Zone cadres, and those whose commanders were arrested then fell under the supervision of Southwest Zone or Division 502 cadres.<sup>911</sup> Those carrying out the arrests were generally from the Southwest Zone, or from Division 502.<sup>912</sup> While one witness states that Son Sen came to arrest soldiers, his relevant testimony is imprecise, based on assumptions, and hence unreliable.<sup>913</sup>

*Number of Division 310 personnel purged*

312. Witness evidence on the number of arrests is unclear. While one witness states that during one month at Tuol Sangkae people were arrested every day and taken to Prey Sar, he offers inconsistent evidence on the arrests and numbers, while also admitting that he does not know where they were transferred to, with his assertion regarding Prey Sar being based on hearsay; he is accordingly not considered reliable on these points.<sup>914</sup> Others state that five soldiers were arrested from their unit,<sup>915</sup> that all except for 10 from a company were arrested,<sup>916</sup> that 25 people from “Unit 17” were arrested and disappeared forever,<sup>917</sup> and that two or three people were arrested “almost every day”

<sup>911</sup> **D114/225**, Written Record of Interview of Witness Him Han, 28 June 2016, ERN 01475928, A20, ERN 01475930, A35-A38, ERN 01475931, A44, 01475932, A50; **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184802-01184803, A24, A27-A28; **D114/254**, Written Record of Interview of Witness Sin Soth, 13 September 2016, ERN 01479425, A20-A23, ERN 01479246, A36; **D114/257**, Written Record of Interview of Witness Seam Kao, 16 September 2016, ERN 01475999, A20-A22, ERN 01476000, A36, ERN 01476001, A48-A50, A52; **D114/259**, Written Record of Interview of Witness Keo Loeu, 19 September 2016, ERN 01476009, A13, A17-A21, ERN 01476011, A43-A44; **D4.1.554**, Written Record of Interview of Witness Lay Ean, 17 January 2009, ERN 00278690; **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278681, ERN 00278684; **D4.1.773**, Written Record of Interview of Witness Tes Trech, 19 June 2009, ERN 00346978-00346979; **D4.1.774**, Written Record of Interview of Witness Yoeun Sambau, 23 June 2009, ERN 00345957-00345960; **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246900, A113, ERN 01246901, A125-A126, ERN 01246902, A138-A143.

<sup>912</sup> **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184802, A22, ERN 01184803, A28; **D114/255**, Written Record of Interview of Witness Van Veng, 14 September 2016, ERN 01475982, A36-A44, ERN 01475983, A61-A65; **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184771, A1, ERN 01184777-01184778, A41-A44, ERN 01184780, A58.

<sup>913</sup> **D114/258**, Written Record of Interview of Witness Lay Ean, 17 September 2016, ERN 01484902, A20-A23.

<sup>914</sup> **D114/258**, Written Record of Interview of Witness Lay Ean, 17 September 2016, ERN 01484901, A12-A14, A17, ERN 01484903-01484904, A41-A51, A57; **D4.1.1150**, Written Record of Interview of Witness Lay Ean, 4 March 2008, ERN 00205008-00205009.

<sup>915</sup> **D114/138**, Written Record of Interview of Witness Prak Yoeun, 12 November 2015, ERN 01184802, A22, ERN 01184803, A24, A26, ERN 01184805-01184805, A32.

<sup>916</sup> **D114/198**, Written Record of Interview of Witness Pin Sam Aun, 18 April 2016, ERN 01246900, A113, ERN 01246901, A125-A126, ERN 01246902, A138-A143.

<sup>917</sup> **D4.1.774**, Written Record of Interview of Witness Yoeun Sambau, 23 June 2009, ERN 00345957-00345960.



from Battalion 17, totalling 200-300.<sup>918</sup> There is, however, an obvious risk of overlap between these accounts and those that ended up in S-21, and therefore they are assumed to have been included in that minimum number.<sup>919</sup>

313. The OCIJ S-21 List indicates the minimum numbers of those arrested and killed:

- i. between 19 February 1977 (the date of Oeun's entry to S-21) and 18 December 1978, the last known date of entry of a Division 310 or Division 207 person to S-21 (both dates inclusive), 928 people from Division 310/207 entered S-21;<sup>920</sup> and

<sup>918</sup> **D4.1.1150**, Written Record of Interview of Witness Lay Ean, 4 March 2008, ERN 00205009.

<sup>919</sup> See for example **D114/137**, Written Record of Interview of Witness Kong Kim, 12 November 2015, ERN 01184781, A61; **D4.1.556**, Written Record of Interview of Witness Kong Kim, 9 January 2009, ERN 00278684; **D4.1.511**, Written Record of Interview of Witness Sem Hoeun, 10 March 2009, ERN 00290517.

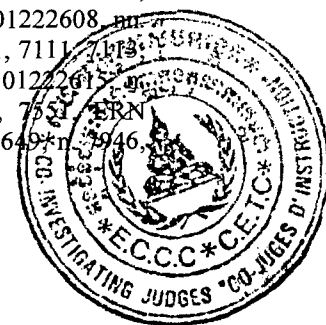
<sup>920</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222333, n. 92, ERN 01222335, n. 135, ERN 01222336, nn. 148, 164, ERN 01222338, n. 195, ERN 01222349, n. 438, ERN 01222352, nn., 503, 505, ERN 01222355, n. 586, ERN 01222356, n. 608, ERN 01222363, n. 741, ERN 01222365, n. 811, ERN 01222366, n. 828, ERN 01222367, nn. 852, 864, ERN 01222381, n. 1209, ERN 01222382, nn. 1217, 1218, 1222, ERN 01222383, n. 1241, ERN 01222385, n. 1327, ERN 01222389, n. 1374, ERN 01222390, n. 1405, ERN 01222395, 1498, ERN 01222399, n. 1593, ERN 01222402, n. 1659, ERN 01222406, n. 1776, ERN 01222407, nn. 1787, 1789, 1797, ERN 01222410, nn. 1869, 1872, ERN 01222412, n. 1938, ERN 01222422, n. 2201, ERN 01222423, nn. 2232, 2235, 2236, ERN 01222425, nn. 2297, 2311, 2312, 2314-2319, ERN 01222426, nn. 2337-2345, ERN 01222427, nn. 2349, 2351, 2352, 2354, 2356, 2365-2367, 2371-2373, ERN 01222428, nn. 2375, 2376, 2379, 2380, 2389-2392, 2394-2398, ERN 01222429, nn. 2399-2423, ERN 01222430, nn. 2424-2460, 2462-2466, ERN 01222431, nn. 2467-2501, ERN 01222432, nn. 2502-2539, ERN 01222433, nn. 2540-2584, ERN 01222434, nn. 2585-2601, ERN 01222438, nn. 2771, 2773, ERN 01222439, nn. 2796, 2798, ERN 01222440, n. 2815, ERN 01222441, nn. 2855, 2857, ERN 01222443, n. 2919, ERN 01222444, n. 2948, ERN 01222447, n. 3042, ERN 01222451, n. 3194, ERN 01222452, nn. 3229-3233, ERN 01222453, nn. 3234-3255, ERN 01222454, nn. 3256-3263, ERN 01222458, nn. 3329, 3351, ERN 01222459, nn. 3362-3367, 3369-3378, ERN 01222464, n. 3514, ERN 01222468, n. 3644, ERN 01222469, nn. 3660-3666, ERN 01222473, n. 3745, ERN 01222476, nn. 3812, 3822, ERN 01222477, n. 3861, ERN 01222478, n. 3881, ERN 01222479, nn. 3889-3890, ERN 01222482, nn. 3970, 3980-3983, ERN 01222483, nn. 3995, 4000, ERN 01222484, nn. 4019, 4022, ERN 01222489, n. 4143, ERN 01222490, nn. 4172-4173, ERN 01222494, nn. 4224, 4227, 4231, ERN 01222496, nn. 4281, 4283-4284, ERN 01222497, n. 4312, ERN 01222498, n. 4335, ERN 01222499, n. 4354, ERN 01222500, nn. 4355, 4377-4378, ERN 01222501, n. 4380, ERN 01222502, nn. 4414, 4423, ERN 01222503, n. 4424, ERN 01222507, nn. 4544, 4547, ERN 01222508, n. 4548, ERN 01222514, n. 4689, ERN 01222515, n. 4701, ERN 01222517, nn. 4750, 4753, ERN 01222519, n. 4819, ERN 01222521, nn. 4852-4853, ERN 01222525, nn. 4977, 4980-4981, 4983, ERN 01222526, nn. 4984-4993, 4995-5003, 5005-5017, ERN 01222527, nn. 5019-5024, 5026-5030, 5032-5036, 5038-5044, 5046, ERN 01222528, nn. 5047-5048, 5050-5058, ERN 01222531, n. 5148, ERN 01222538, nn. 5358-5359, ERN 01222540, nn. 5391, 5403, ERN 01222544, nn. 5488, 5491-5492, 5496, ERN 01222545, n. 5533, ERN 01222546, n. 5565, ERN 01222547, nn. 5576, 5590, ERN 01222550, nn. 5666, 5676, ERN 01222557, n. 5842, ERN 01222559, nn. 5878, 5900, ERN 01222560, nn. 5916, 5924, ERN 01222561, nn. 5926, 5944-5946, ERN 01222562, nn. 5970, 5972, ERN 01222563, n. 5974, ERN 01222564, nn. 6010-6013, ERN 01222565, nn. 6039, 6041-6043, 6045, 6047, ERN 01222566, nn. 6049-6051, ERN 01222568, nn. 6109-6117, ERN 01222569, nn. 6140, 6144-6146, 6148, 6150-6151, ERN 01222570, nn. 6152-6153, ERN 01222571, nn. 6187-6190, ERN 01222571, nn. 6193, 6195, ERN 01222572, nn. 6201-6204, ERN 01222574, n. 6267, ERN 01222581, nn. 6426-6432, ERN 01222582, nn. 6434-6438, 6441-6452, 6454-6459, ERN 01222583, nn. 6460, 6462-6463, 6465-6467, 6470, 6472-6480, 6482, ERN 01222584, nn. 6483-6492, 6494-6508, ERN 01222585, nn. 6509-6510, ERN 01222592, n. 6695, ERN 01222595, nn. 6756-6762, 6764-6778, ERN 01222597, n. 6811, ERN 01222598, nn. 6837, 6856, ERN 01222600, n. 6904, ERN 01222603, nn. 6961, 6969, ERN 01222604, n. 6987, ERN 01222607, nn. 7067-7068, ERN 01222608, nn. 7069-7080, 7082-7096, ERN 01222609, nn. 7097-7109, 7111-7114, 7116-7117, ERN 01222610, nn. 7122-7126, 7128-7135, 7137-7145, ERN 01222611, nn. 7147-7149, ERN 01222612.



- ii. of those, the date of execution of 496 individuals is known;<sup>921</sup> the only reasonable conclusion for the remaining ones, however, is that they were also killed.<sup>922</sup>

ERN 01222615, n. 7231, ERN 01222619, n. 7325, ERN 01222627, nn. 7518-7520, ERN 01222629, nn. 7547, 7551, 7558, ERN 01222637, nn. 7708, 7710-7711, 7714, ERN 01222644, n. 7849, ERN 01222645, nn. 7877, 7880, ERN 01222649, n. 7946, ERN 01222650, nn. 7961, 7966, 7976-7978, ERN 01222651, nn. 7994-7998, 8000-8001, ERN 01222652, nn. 8002-8004, 8019, ERN 01222653, nn. 8030, 8044, ERN 01222654, n. 8050, ERN 01222655, n. 8078, ERN 01222656, nn. 8111-8119, 8135, ERN 01222657, n. 8155, ERN 01222658, n. 8177, ERN 01222659, n. 8190, ERN 01222660, n. 8221, ERN 01222662, nn. 8265, 8277, ERN 01222664, n. 8317, ERN 01222666, n. 8347, ERN 01222668, n. 8395, ERN 01222674, n. 8512, ERN 01222675, n. 8547, ERN 01222680, n. 8646, ERN 01222684, n. 8730, ERN 01222687, n. 8784, ERN 01222688, nn. 8816-8817, ERN 01222689, n. 8819, ERN 01222690, n. 8856, ERN 01222694, n. 8921, ERN 01222697, nn. 8986, 8995-8999, ERN 01222698, n. 9006, ERN 01222708, n. 9236, ERN 01222711, n. 9326, ERN 01222725, n. 9635, ERN 01222727, nn. 9686-9687, ERN 01222728, nn. 9688-9690, ERN 01222730, n. 9732, ERN 01222731, n. 9756, ERN 01222734, nn. 9821-9823, ERN 01222759, n. 10370, ERN 01222768, nn. 10568-10570, ERN 01222769, n. 10596, ERN 01222770, n. 10615, ERN 01222771, n. 10644, ERN 01222775, n. 10740, ERN 01222786, nn. 11053-11055, ERN 01222813, n. 11724, ERN 01222815, n. 11775, ERN 01222816, n. 11784, ERN 01222817, n. 11811, ERN 01222818, n. 11851, ERN 01222820, nn. 11904-11906, ERN 01222821, nn. 11907, 11925-11930, ERN 01222826, nn. 12106-12109, ERN 01222827, nn. 12110-12119, 12134-12139, ERN 01222828, nn. 12140-12159, 12161-12163, ERN 01222831, n. 12247, ERN 01222835, n. 12313, ERN 01222840, nn. 12441-12445, ERN 01222845, n. 12578, ERN 01222850, nn. 12707-12713, ERN 01222855, nn. 12850-12852, ERN 01222863, n. 13060, ERN 01222868, n. 13176, ERN 01222869, n. 13189, ERN 01222870, nn. 13227-13228, ERN 01222873, n. 13294, ERN 01222876, n. 13376, ERN 01222877, nn. 13388-13398, ERN 01222887, n. 13596, ERN 01222889, n. 13631, ERN 01222891, n. 13673, ERN 01222892, nn. 13706, ERN 01222900, n. 13909, ERN 01222901, nn. 13935-13941, ERN 01222906, n. 14109, ERN 01222917, n. 14477, ERN 01222919, n. 14551, ERN 01222930, nn. 14896, 14902, 14910, ERN 01222931, n. 14912.

<sup>921</sup> D114/230.1.1, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222333, n. 92, ERN 01222336, nn. 148, 164, ERN 01222338, n. 195, ERN 01222355, n. 586, ERN 01222356, n. 608, ERN 01222365, n. 811, ERN 01222366, n. 828, ERN 01222367, n. 852, ERN 01222382, nn. 1218, 1222, ERN 01222383, n. 1241, ERN 01222387, n. 1327, ERN 01222389, n. 1374, ERN 01222390, n. 1405, ERN 01222395, n. 1498, ERN 01222399, n. 1593, ERN 01222402, n. 1659, ERN 01222406, n. 1776, ERN 01222407, n. 1787, ERN 01222410, nn. 1869, 1872, ERN 01222412, n. 1938, ERN 01222422, n. 2201, ERN 01222423, n. 2232, ERN 01222425, nn. 2311, 2314-2316, 2318-2319, ERN 01222426, nn. 2338, 2344, ERN 01222427, nn. 2349, 2371-2373, ERN 01222428, nn. 2375, 2379-2380, 2389-2392, 2394-2395, ERN 01222429, nn. 2409, 2418-2423, ERN 01222430, nn. 2424-2460, 2463-2466, ERN 01222431, nn. 2467-2475, 2479-2481, 2484-2488, 2491, 2493-2495, 2497-2501, ERN 01222432, nn. 2502-2509, 2511-2512, 2517, 2519, 2521, 2523-2524, 2527-2532, 2534-2539, ERN 01222433, nn. 2540-2547, 2552-2554, 2556-2557, 2559-2562, 2565-2566, 2568, 2570-2573, 2575, 2577-2579, 2582, 2584, ERN 01222434, nn. 2586-2587, 2590-2592, 2594-2596, ERN 01222438, n. 2773, ERN 01222441, nn. 2855, 2857, ERN 01222444, n. 2948, ERN 01222447, n. 3042, ERN 01222451, n. 3194, ERN 01222452, nn. 3229-3233, ERN 01222453, nn. 3234, 3236-3255, ERN 01222454, nn. 3256-3263, ERN 01222458, n. 3351, ERN 01222459, n. 3362, ERN 01222464, n. 3514, ERN 01222468, n. 3644, ERN 01222469, nn. 3360-3665, ERN 01222473, n. 3745, ERN 01222476, nn. 3812, 3822, ERN 01222482, nn. 3980, 3982-3983, ERN 01222483, n. 3995, ERN 01222484, nn. 4019, 4022, ERN 01222490, nn. 4172-4173, ERN 01222494, nn. 4227, 4231, ERN 01222496, nn. 4281, 4283, ERN 01222497, n. 4312, ERN 01222499, n. 4354, ERN 01222500, n. 4355, ERN 01222502, n. 4423, ERN 01222507, n. 4544, ERN 01222514, n. 4689, ERN 01222515, n. 4701, ERN 01222525, nn. 4977, 4981, ERN 01222526, n. 4984-4993, 4995-5003, 5005-5017, ERN 01222527, nn. 5020, 5022-5023, 5026-5030, 5032-5036, 5038-5044, 5046, ERN 01222528, nn. 5047-5048, 5050-5058, ERN 01222538, n. 5358, ERN 01222540, n. 5391, ERN 01222544, n. 5492, ERN 01222545, n. 5533, ERN 01222557, n. 5842, ERN 01222559, n. 5878, ERN 01222560, n. 5916, ERN 01222561, n. 5926, ERN 01222581, nn. 6426, 6429-6433, 6436, 6438, 6441, 6444, 6457, 6459, ERN 01222583, nn. 6466, 6470, 6475-6478, 6480, 6482, ERN 01222584, nn. 6483-6484, 6487, 6494, 6496-6497, 6502, 6504-6505, 6507, ERN 01222595, nn. 6758, 6760-6762, 6765-6768, 6772-6773, 6775-6778, ERN 01222597, n. 6811, ERN 01222598, n. 6856, ERN 01222600, n. 6904, ERN 01222603, n. 6969, ERN 01222607, nn. 7067-7068, ERN 01222608, nn. 7069-7073, 7077, 7079-7080, 7083-7084, 7087, 7090-7092, 7094, 7096, ERN 01222609, nn. 7101, 7111, 7113, ERN 01222610, nn. 7122, 7124, 7126, 7130-7131, 7133-7135, ERN 01222611, n. 7147, ERN 01222612, nn. 7149, 7151, 7153, ERN 01222615, n. 7231, ERN 01222619, n. 7325, ERN 01222627, nn. 7518-7520, ERN 01222629, nn. 7547, 7551, 7558, ERN 01222637, nn. 7708, 7710-7711, ERN 01222644, n. 7849, ERN 01222645, n. 7877, ERN 01222649, n. 7946, ERN 01222650, nn. 7961, 7966, 7976-7978, ERN 01222651, nn. 7994-7998, 8000-8001, ERN 01222652, nn. 8002-8004, 8019, ERN 01222653, nn. 8030, 8044, ERN 01222654, n. 8050, ERN 01222655, n. 8078, ERN 01222656, nn. 8111-8119, 8135, ERN 01222657, n. 8155, ERN 01222658, n. 8177, ERN 01222659, n. 8190, ERN 01222660, n. 8221, ERN 01222662, nn. 8265, 8277, ERN 01222664, n. 8317, ERN 01222666, n. 8347, ERN 01222668, n. 8395, ERN 01222674, n. 8512, ERN 01222675, n. 8547, ERN 01222680, n. 8646, ERN 01222684, n. 8730, ERN 01222687, n. 8784, ERN 01222688, nn. 8816-8817, ERN 01222689, n. 8819, ERN 01222690, n. 8856, ERN 01222694, n. 8921, ERN 01222697, nn. 8986, 8995-8999, ERN 01222698, n. 9006, ERN 01222708, n. 9236, ERN 01222711, n. 9326, ERN 01222725, n. 9635, ERN 01222727, nn. 9686-9687, ERN 01222728, nn. 9688-9690, ERN 01222730, n. 9732, ERN 01222731, n. 9756, ERN 01222734, nn. 9821-9823, ERN 01222759, n. 10370, ERN 01222768, nn. 10568-10570, ERN 01222769, n. 10596, ERN 01222770, n. 10615, ERN 01222771, n. 10644, ERN 01222775, n. 10740, ERN 01222786, nn. 11053-11055, ERN 01222813, n. 11724, ERN 01222815, n. 11775, ERN 01222816, n. 11784, ERN 01222817, n. 11811, ERN 01222818, n. 11851, ERN 01222820, nn. 11904-11906, ERN 01222821, nn. 11907, 11925-11930, ERN 01222826, nn. 12106-12109, ERN 01222827, nn. 12110-12119, 12134-12139, ERN 01222828, nn. 12140-12159, 12161-12163, ERN 01222831, n. 12247, ERN 01222835, n. 12313, ERN 01222840, nn. 12441-12445, ERN 01222845, n. 12578, ERN 01222850, nn. 12707-12713, ERN 01222855, nn. 12850-12852, ERN 01222863, n. 13060, ERN 01222868, n. 13176, ERN 01222869, n. 13189, ERN 01222870, nn. 13227-13228, ERN 01222873, n. 13294, ERN 01222876, n. 13376, ERN 01222877, nn. 13388-13398, ERN 01222887, n. 13596, ERN 01222889, n. 13631, ERN 01222891, n. 13673, ERN 01222892, nn. 13706, ERN 01222900, n. 13909, ERN 01222901, nn. 13935-13941, ERN 01222906, n. 14109, ERN 01222917, n. 14477, ERN 01222919, n. 14551, ERN 01222930, nn. 14896, 14902, 14910, ERN 01222931, n. 14912.



314. Mass executions of Division 310 detainees at S-21 frequently occurred, with, in particular, more than 10 people killed on the following dates:<sup>923</sup>

- i. March 1977: 17<sup>th</sup> (25 people), 23<sup>rd</sup> (11 people), 25<sup>th</sup> (18 people);<sup>924</sup>
- ii. April 1977: 4<sup>th</sup> (106 people), 10<sup>th</sup> (21 people);<sup>925</sup>
- iii. June 1977: 10<sup>th</sup> (45 people);<sup>926</sup>
- iv. July 1977: 16<sup>th</sup> (45 people), 29<sup>th</sup> (21 people);<sup>927</sup>

ERN 01222650, nn. 7961, 7977, ERN 01222651, nn. 7994-7998, 8000-8001, ERN 01222652, nn. 8002-8004, 8019, ERN 01222653, n. 8030, ERN 01222654, n. 8050, ERN 01222655, n. 8078, ERN 01222656, n. 8112, ERN 01222657, n. 8155, ERN 01222658, n. 8177, ERN 01222660, n. 8221, ERN 01222662, n. 8277, ERN 01222664, n. 8317, ERN 01222666, n. 8347, ERN 01222668, n. 8395, ERN 01222675, n. 8547, ERN 01222680, n. 8646, ERN 01222684, n. 8730, ERN 01222688, nn. 8816-8817, ERN 01222689, n. 8819, ERN 01222690, n. 8856, ERN 01222694, n. 8921, ERN 01222697, nn. 8995-8999, ERN 01222708, n. 9236, ERN 01222727, nn. 9686-9687, ERN 01222728, nn. 9688-9690, ERN 01222730, n. 9732, ERN 01222731, n. 9756, ERN 01222734, nn. 9821-9823, ERN 01222759, n. 10370, ERN 01222770, n. 10615, ERN 01222771, n. 10644, ERN 01222775, n. 10740, ERN 01222786, nn. 11053, 11055, ERN 01222813, n. 11724, ERN 01222815, n. 11775, ERN 01222831, n. 12247, ERN 01222835, n. 12313, ERN 01222845, n. 12578, ERN 01222855, nn. 12850-12852, ERN 01222863, n. 13060, ERN 01222877, n. 13388, ERN 01222889, n. 13631, ERN 01222900, n. 13909, ERN 01222902, nn. 13935-13938, 13941.

<sup>922</sup> See *S-21 Security Centre*, para. 167.

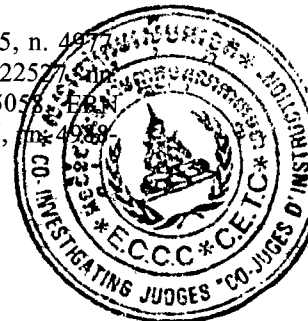
<sup>923</sup> Of those arrested on or after 19 February 1977.

<sup>924</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), 17 March 1977: ERN 01222425, nn. 2311, 2314-2316, 2318-2319, ERN 01222426, n. 2338, ERN 01222427, nn. 2371-2373, ERN 01222428, nn. 2375, 2379, 2380, 2392, ERN 01222431, nn. 2488, 2501, ERN 01222432, nn. 2509, 2511, ERN 01222453, nn. 3236-3237, 3243, 3247, ERN 01222454, nn. 3256, 3260, ERN 01222845, n. 12,578; 23 March 1977: ERN 01222428, nn. 2389, 2391, ERN 01222431, nn. 2494-2495, ERN 01222433, nn. 2542-2544, 2546-2547, ERN 01222453, n. 3240; 25 March 1977 ERN 01222452, nn. 3231, 3233, ERN 01222453, nn. 3239, 3241-3242, 3244-3245, 3248-3249, 3252-3255, ERN 01222454, nn. 3258-3259, 3261-3263.

<sup>925</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), 4 April 1977: ERN 01222423, n. 2232, ERN 01222426, n. 2344, ERN 01222427, n. 2349, ERN 01222428, n. 2390, ERN 01222429, nn. 2418-2423, ERN 01222430, nn. 2424-2425, 2427-2460, 2463-2466, ERN 01222431, nn. 2467-2470, 2472-2475, 2479-2481, 2484-2487, 2491, 2493, 2497-2500, ERN 01222432, nn. 2502-2508, 2512, 2517, 2519, 2521, 2523-2524, 2527-2532, 2534-2539, ERN 01222433, nn. 2540-2541, 2545, 2572, 2575, 2577, ERN 01222434, nn. 2586, 2596, ERN 01222668, n. 8395; 10 April 1977: ERN 01222433, nn. 2552-2554, 2556-2557, 2559-2562, 2565-2566, 2568, 2570-2571, 2573, 2578, 2582, ERN 01222434, nn. 2591-2592, 2594-2595.

<sup>926</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222333, n. 92, ERN 01222336, n. 148, ERN 01222355, n. 586, ERN 01222382, n. 1218, ERN 01222383, n. 1241, ERN 01222387, n. 1327, ERN 01222422, n. 2201, ERN 01222428, n. 2395, ERN 01222430, n. 2426, ERN 01222441, nn. 2855, 2857, ERN 01222482, nn. 3982-3983, ERN 01222483, n. 3995, ERN 01222484, n. 4022, ERN 01222490, nn. 4172-4173, ERN 01222494, nn. 4227, 4231, ERN 01222496, nn. 4281, 4283, ERN 01222499, n. 4354, ERN 01222500, n. 4355, ERN 01222502, n. 4423, ERN 01222515, n. 4701, ERN 01222538, n. 5358, ERN 01222598, n. 6856, ERN 01222600, n. 6904, ERN 01222615, n. 7231, ERN 01222629, n. 7551, ERN 01222644, n. 7849, ERN 01222645, n. 7877, ERN 01222649, n. 7946, ERN 01222650, n. 7961, ERN 01222675, n. 8547, ERN 01222688, n. 8817, ERN 01222770, n. 10615, ERN 01222775, n. 10740, ERN 01222835, n. 12313, ERN 01222889, n. 13631, ERN 01222901, nn. 13935-13938, 13941.

<sup>927</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), 16 July 1977: ERN 01222525, n. 4987, ERN 01222526, nn. 4984-4986, 4990-4993, 4996-5002, 5005, 5008-5009, 5014-5017, ERN 01222527, nn. 5026-5028, 5030, 5033-5034, 5036, 5039-5044, ERN 01222528, nn. 5050-5051, 5053, 5055-5058, ERN 01222658, n. 8177, ERN 01222688, n. 8816; 29 July 1977: ERN 01222525, n. 4981, ERN 01222526, n. 4988.





- v. October 1977: 23<sup>rd</sup> (13 people);<sup>928</sup> and
- vi. January 1978: 3<sup>rd</sup> (39 people).<sup>929</sup>

#### 5.6.3.5 Meas Muth's involvement in the purge of Division 310

315. There is no evidence of **Meas Muth's** direct involvement in the purge of Division 310.

#### 5.6.3.6 Purge of Division 117

316. Around October 1978, as Vietnamese forces advanced into DK, Division 117 retreated from the Vietnamese border to Snuol, and then further to Preaek Chhluong.<sup>930</sup> Around that time, Rom and Leang were called to a meeting in Kratie, by Office 870, the code for the CPK Centre.<sup>931</sup> In October or November 1978, a decoded telegram was delivered to Rom by **Meas Muth's** messengers, in which Office 870 'invited' Rom, Leang, Phan, from Regiment 15, and eight others including members of the civilian Sector 505 administration (Yeng, the Kratie District Secretary, Chen alias Phoen, the Snuol District Secretary, and Moeun the Sector 505 Secretary) ("Rom's Group") to a meeting in Phnom Penh. The group travelled to Phnom Penh by plane and boat, on different dates, with specific instructions regarding the transfer coming from Office 870.<sup>932</sup> Some of them were eventually detained in S-21. Witnesses give different

4989, 4995, 5003, 5006-5007, 5010-5013, ERN 01222527, nn. 5020, 5022, 5023, 5029, 5032, 5038, ERN 01222528, nn. 5047-5048, 5052, 5054.

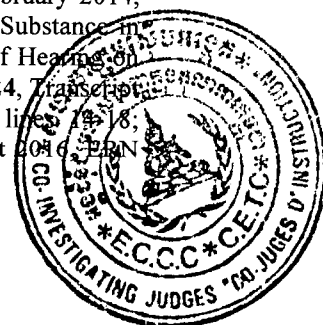
<sup>928</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222399, n. 1593, ERN 01222410, n. 1872, ERN 01222438, n. 2773, ERN 01222582, nn. 6433, 6436, ERN 01222583, nn. 6470, 6475, 6482, ERN 01222584, nn. 6484, 6505, 6507, ERN 01222597, n. 6811, ERN 01222666, n. 8347.

<sup>929</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222545, n. 5533, ERN 01222581, nn. 6426, 6429-6432, ERN 01222582, nn. 6438, 6441, 6444, 6457, 6459, ERN 01222583, nn. 6466, 6476, ERN 01222584, nn. 6494, 6496-6497, 6502, ERN 01222607, nn. 7066-7067, ERN 01222608, nn. 7079, 7083-7084, 7087, 7096, ERN 01222609, nn. 7101, 7111, 7113, ERN 01222610, nn. 7122, 7124, 7126, 7130-7131, 7133-7135, ERN 01222619, n. 7325, ERN 01222627, nn. 7518-7520.

<sup>930</sup> **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076748, A28-A30.

<sup>931</sup> Variations include "87", "Office 87", "M-870", see **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076748-01076749, A30-A32; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982728, A24, ERN 00982729, A29; **D114/101**, Written Record of Interview of Witness Em Sarin, 6 August 2015, ERN 01142606, A30, ERN 01142608, A40; **D114/297.1.24**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 28 July 2016, ERN 01346813-01346814; **D4.1.810**, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412184, A55; **D114/29.1.6**, Written Record of Interview of Witness Sao Sarun, 29 June 2009, ERN 00350261, ERN 00350263.

<sup>932</sup> **D54/60.2**, DC-Cam Statement of Moeng Vet, 13 August 2013, ERN 01212298-01212301, ERN 01212303-01212305, as confirmed in **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982728, A24, ERN 00982729, A27, A29, **D114/297.1.22**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 26 July 2016, ERN 01346561-01346566, **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347021-01347031, **D114/297.1.24**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 28 July 2016, ERN 01346810, **D114/297.1.27**, Transcript of Hearing on the Substance in Case 002/02 [Seng Soeun], 29 August 2015, ERN 01346811-01346812.



reasons why Rom was arrested: for being a traitor, for opposing **Meas Muth**, for not fighting or for losing against the Vietnamese.<sup>933</sup>

317. While no witness mentions the transfer of Svay Naunh (the Division 117 Office Chief) with Rom's Group, he entered S-21 on 1 December 1978;<sup>934</sup> hence it is probable he was among Rom's Group. Leang entered S-21 on 1 December 1978, Rom on 8 December 1978 and Phan on 14 December 1978.<sup>935</sup>
318. There is some contradictory evidence on the fate of Rom and Leang, with one witness stating initially that they died after their car hit a mine<sup>936</sup> but later correcting himself that they were arrested and taken away.<sup>937</sup> Similarly, one witness's assertion that Rom was arrested when the Vietnamese army overran the CPK forces<sup>938</sup> is unreliable, given the entry records for S-21 which clearly paint a different picture.
319. Phan was executed on 31 December 1978.<sup>939</sup> While no date of execution has been established for Rom, Leang or Naunh, given their seniority, that releases from S-21 were "very rare", that no record exists of them having survived the Regime, and that

01369882-01369883; **D4.1.810**, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412181, A35-A36; **D114/101**, Written Record of Interview of Witness Em Sarin, 6 August 2015, ERN 01142604, A20, ERN 01142605-01142608, A23-A33, A38-A39; **D114/64**, Written Record of Interview of Witness Em Sarin, 23 April 2015, ERN 01098423, A263-A268, ERN 01098424, A281-A286. *See also* **D114/102**, Written Record of Interview of Witness Em Sarin, 7 August 2015, ERN 01145684, A7; **D114/192**, Written Record of Interview of Witness Chen Phat, 1 April 2016, ERN 01226335, A27-A29; **D114/157.1.3**, DC-Cam Statement of Chen Phat, 20 May 2012, ERN 01507037-01507038; **D114/170**, Written Record of Interview of Witness Prum Mon, 15 February 2016, ERN 01212902-01212903, A32-A41; **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01237988-01237989, A27, A30-A32.

<sup>933</sup> **D114/157.1.1**, DC-Cam Statement of Chhuon Nhean and Reang Sophai, 8 April 2012, ERN 01505784; **D114/170**, Written Record of Interview of Witness Prum Mon, 15 February 2016, ERN 01212902-01212903, A32-A37; **D114/297.1.22**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 26 July 2016, ERN 01346518, lines 18-25; **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076749, A34, ERN 01076750, A39; **D114/203**, Written Record of Interview of Witness Menh Noeum, 27 April 2016, ERN 01306471, A42. *See also* **D54/50**, Written Record of Interview of Witness Meas Vooun, 14 January 2014, ERN 00978398-00978400, A4-A9 (witness recalls a specific incident relayed to him by forces involved in which Division 164 forces attacked Division 1 forces who had retreated in the face of a Vietnamese advance, at Tonle Bet, along the bank of the Mekong).

<sup>934</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222672, n. 8471.

<sup>935</sup> **Leang**: **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222644, n. 7862; **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347021, lines 18-25, ERN 01347022, lines 1-12. **Rom**: **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222484, n. 4032; **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347025, lines 10-25. **Phan**: **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222482, n. 3979. *See also* **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982731, A35, A38-A39.

<sup>936</sup> **D114/191**, Written Record of Interview of Witness Sao So, 31 March 2016, ERN 01238020, A14-A15.

<sup>937</sup> **D114/191**, Written Record of Interview of Witness Sao So, 31 March 2016, ERN 01238022, A32.

<sup>938</sup> **D114/203**, Written Record of Interview of Witness Menh Noeum, 27 April 2016, ERN 01306468, A13.

<sup>939</sup> **D114/230.1.1**, OCIJ S-21 Prisoner List, 4 July 2016 (filing date), ERN 01222482, n. 3979.



other members of Rom's Group were executed on 31 December 1978, the only reasonable conclusion is that they were also killed at S-21 at the time, or in the days prior to the arrival of Vietnamese forces on 7 January 1979.<sup>940</sup>

320. Nhan, one of **Meas Muth's** deputies, took charge of Division 117, as announced by **Meas Muth**,<sup>941</sup> with Pheap (a Navy commander from Kampong Som) replacing Moeun as Sector 505 Secretary.<sup>942</sup>
321. Following the transfer to S-21 described above, another incident involving the arrest and killing of Division 117 members is supported by the testimony of one witness. He alone survived because he was considered too young to be killed. He states that 11 soldiers, who were his friends, were arrested and disappeared one by one, following several escape attempts because of the terrible conditions within the unit. The witness believes that the retaliation occurred because "*they thought that we were not honest; we had betrayed them and we were not loyal to the party. So they could not let us survive*". The witness actually saw the body of his step-brother in a pit a few days after he had been taken away.<sup>943</sup> There is no indication that either the escapes or the killings were related to an alleged desertion from the unit's active combat operations at the time.
322. Witness testimony is otherwise insufficient to draw conclusions with respect to the extent of the purges specifically within Division 117. Only one witness estimates with some precision that several senior cadres and 10 to 20 soldiers from his unit within Division 117, "*Battalion 17*", were called to join study sessions,<sup>944</sup> which was a euphemism for being taken to be killed. All the remaining evidence is too general and

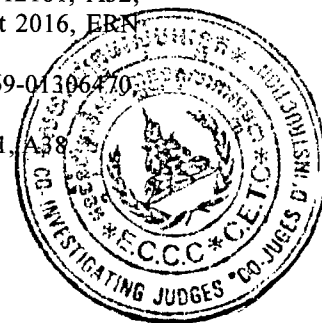
<sup>940</sup> See S-21 Security Centre, para. 167.

<sup>941</sup> **Meas Muth's deputy**: See *RAK structure and Meas Muth's roles and responsibilities*, para. 157. **Took charge of Division 117**: **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076749, A35-A36; **D114/297.1.22**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 26 July 2016, ERN 01346561, lines 1-15; **D114/157.1.3**, DC-Cam Statement of Chen Phat, 20 May 2012, ERN 01507038-01507039, as confirmed in **D114/192**, Written Record of Interview of Witness Chen Phat, 1 April 2016, ERN 01226337, A41-A42; **D114/203**, Written Record of Interview of Witness Menh Noeum, 27 April 2016, ERN 01306471-01306472, A44. See para. 324 regarding announcement.

<sup>942</sup> **D54/60.2**, DC-Cam Statement of Moeng Vet, 13 August 2013, ERN 01212305, ERN 01212307-0121308; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982728, A24; **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01237987, A21-A22; **D4.1.810**, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412181, A32; **D114/297.1.27**, Transcript of Hearing on the Substance in Case 002/02 [Seng Soeun], 29 August 2016, ERN 01369875, lines 15-24.

<sup>943</sup> **D114/203**, Written Record of Interview of Witness Menh Noeum, 27 April 2016, ERN 01306469-01306470, A25-A27, A29-A39.

<sup>944</sup> **D114/203**, Written Record of Interview of Witness Menh Noeum, 27 April 2016, ERN 01306471.



vague in nature and cannot be relied upon.<sup>945</sup> In the absence of reliable detail that such references are to members of Division 117, and considering that the OCIJ S-21 List does not, aside from Rom's Group, include any entries for Division 117 personnel in December 1978 or January 1979,<sup>946</sup> a determination cannot be made. One statement that no arrests at all occurred is, however, not credible because of the evidence in respect of Rom's Group and due to the generic evidence mentioned above about arrests, which even in its generality militates against such a sweeping denial of arrests.<sup>947</sup>

323. In light of the above evidence, under the purge of military staff of Division 117:

- i. at least four senior cadres (Rom, Leang, Phan, and Naunh) were killed at S-21;
- ii. a further 11 were killed *in situ* after escape attempts; and
- iii. at least two senior cadres and 10 soldiers from Battalion 17 were killed.

#### 5.6.3.7 Meas Muth's involvement in the purge of Division 117

324. **Meas Muth** travelled to Kratie in late 1978, staying for a period of two weeks, along with a group of his commanders, including Nhan, in addition to a number of shorter visits.<sup>948</sup> Nhan told lower level cadres that **Meas Muth** came to reorganise the Division and its leadership.<sup>949</sup> His messengers delivered the order regarding Rom's Group;<sup>950</sup> he

<sup>945</sup> **D4.1.191**, UNHCHR Suspect Statement of Kaing Guek Eav alias Duch, 18 June 1999, ERN 00185020 (*see contra* **D114/160**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 3 February 2016, ERN 01213431, A11); **D114/302**, Written Record of Interview of Witness Kung Pai, 28 February 2017, ERN 01505859-01505860, A51-A57; **D114/157.1.4**, DC-Cam Statement of Hao Ao, 27 June 2012, ERN 01507118-01507123; **D4.1.458**, Written Record of Interview of Witness Tann Saroeun, 3 June 2008, ERN 00225534.

<sup>946</sup> While the OCIJ S-21 List does contain a number of entries in 1976-1977, there is no evidence linking these to **Meas Muth**. *See also* **D114/157.1.3**, DC-Cam Statement of Chen Phat, 20 May 2012, ERN 01507040 (stating that only senior cadres were arrested), *as confirmed in* **D114/192**, Written Record of Interview of Witness Chen Phat, 1 April 2016, ERN 01226335, A27-A28, ERN 01226337, A37-A38.

<sup>947</sup> **D114/193**, Written Record of Interview of Witness Sao Sarun, 2 April 2016, ERN 01235784-01235785, A43-A44.

<sup>948</sup> **D114/285**, Written Record of Interview of Witness Bun Sarath, 28 November 2016, ERN 01375318-01375319, A224-A232; **D54/110**, Written Record of Interview of Witness Lon Seng, 23 June 2014, ERN 01331642, A5-A7; **D54/63**, Written Record of Interview of Witness Moeng Vet, 14 February 2014, ERN 00982739, A21-A23; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982729, A26-A27; **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01237991, A57; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076847-01076848, A35-A36; **D114/116**, Written Record of Interview of Witness Saman Svay, 4 September 2015, ERN 01172475, A53-A57; **D54/109**, Written Record of Interview of Witness Sao Sam, 20 June 2014, ERN 01088480, A23-A25. *See also* **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148772, A110-A111, ERN 01148780, A178; **D4.1.927**, Written Record of Interview of Civil Party Applicant Heng Lai Heang, 23 November 2009, ERN 00414565-00414566, A12.

<sup>949</sup> **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076750-01076751, A40-A42, ERN 01076753, A54.



was at the airport when at least some members of the Group were transferred,<sup>951</sup> and he announced the replacement of the individuals removed as well as the appointment of Nhan as the new Commander of Division 117.<sup>952</sup>

325. There is some uncertainty in the testimony of one witness about whether **Meas Muth** had a “written order” or “letter” stating that he was “in charge of assigning [the appointees] to the new appointments”,<sup>953</sup> a “name list” or “letter of assignment”,<sup>954</sup> or “a document containing the biographies” of the appointees.<sup>955</sup> Despite these inconsistencies regarding the precise nature of the document, the reliable and in this context sufficient gist of the witness’ testimony is that **Meas Muth** had a document based upon which he announced the replacements.
326. **Meas Muth** held a meeting following the arrest of Rom’s Group, telling those in attendance that their commanders were traitors, that they had not fought hard enough against the Vietnamese, and had to be replaced.<sup>956</sup>
327. **Meas Muth** was, in sum, closely involved in the arrest, transfer, and replacement of Division 117’s senior personnel. Duch’s testimony that **Meas Muth** was only involved in the purge of Division 164,<sup>957</sup> and other witnesses’ statements that, at some point,

<sup>950</sup> See para. 316.

<sup>951</sup> **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982729, A29; **D114/297.1.22**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 26 July 2016, ERN 01346561, lines 1-11; **D114/297.1.27**, Transcript of Hearing on the Substance in Case 002/02 [Seng Soeun], 29 August 2016, ERN 01369882-01369883; **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01237990, A42.

<sup>952</sup> **D114/297.1.27**, Transcript of Hearing on the Substance in Case 002/02 [Seng Soeun], 29 August 2016, ERN 01369875, lines 15-24, ERN 01369877-01369878; **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01237987-01237988, A18-A22; **D4.1.810**, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412180, A26-A27; **D54/63**, Written Record of Interview of Witness Moeng Vet, 14 February 2014, ERN 00982735, A1.

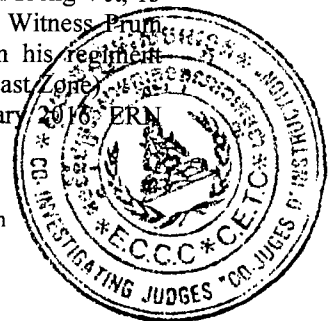
<sup>953</sup> **D4.1.810**, Written Record of Interview of Witness Seng Soeun, 11 November 2009, ERN 00412180, A26-A27.

<sup>954</sup> **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01237987-01237988, A18, A20.

<sup>955</sup> **D114/297.1.27**, Transcript of Hearing on the Substance in Case 002/02 [Seng Soeun], 29 August 2016, ERN 01369877-01369878.

<sup>956</sup> **D54/60.2**, DC-Cam Statement of Moeng Vet, 13 August 2013, ERN 01212301, 01212318, as confirmed in **D54/63**, Written Record of Interview of Witness Moeng Vet, 14 February 2014, ERN 00982735-00982736, A1-A2, ERN 00982737, A6-A7; **D114/297.1.23**, Transcript of Hearing on the Substance in Case 002/02 [Moeng Vet], 27 July 2016, ERN 01347031-01347032; **D54/62**, Written Record of Interview of Witness Moeng Vet, 13 February 2014, ERN 00982730, A30-A31. See also **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055473, A75-A76, ERN 01055474, A84 (witness heard from his regiment commander that **Meas Muth** was ordered by Son Sen to suppress rebels led by Sao Phim in the East Zone).

<sup>957</sup> **D114/159**, Written Record of Interview of Witness Kaing Guek Eav, alias Duch, 2 February 2016, ERN 01213426, A30.



**Meas Muth** moved from Kampong Som to work in Phnom Penh;<sup>958</sup> that at the end of 1978 he went to Kampong Cham to act for Son Sen;<sup>959</sup> that “*East people*” were responsible for the purge of Sambor District;<sup>960</sup> and a reference in one DC-Cam statement to the take-over of control of the army in Kratie by Vorn Vet<sup>961</sup> do not materially affect this finding. His general position as Commander of Division 164 from the beginning to the end of the DK Regime did not prevent him from being assigned from time to time on specific missions across the country; there is no indication, either, in the evidence that he was ever relieved of his formal command of Division 164 for even a short period of time.<sup>962</sup> Duch’s testimony about **Meas Muth**’s role being restricted to purging only Division 164 is not specific enough: he merely states apodictically that **Meas Muth** purged only Division 164 without giving reasons for this knowledge; on the contrary, he admits himself that he – like anyone else – received no documentation about any purges but simply states that everybody knew about them at the time.<sup>963</sup> This testimony cannot override the above-mentioned evidential considerations regarding **Meas Muth**’s movements in Kratie in late 1978.

328. Following the replacement of the Division 117 leadership, **Meas Muth** left Kratie;<sup>964</sup> there is no evidence linking him to incidents occurring there after his departure.

<sup>958</sup> **D114/170**, Written Record of Interview of Witness Prum Mon, 15 February 2016, ERN 01212902, A31.

<sup>959</sup> **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055472-01055473, A73-A74.

<sup>960</sup> **D4.1.808**, Written Record of Interview of Witness Duk Suo, 10 November 2009, ERN 00404727-00404728, A42-A44.

<sup>961</sup> **D54/60.2**, DC-Cam Statement of Moeng Vet, 13 August 2013, ERN 01212313.

<sup>962</sup> See *RAK structure and Meas Muth’s roles and responsibilities*, para. 163.

<sup>963</sup> **D114/159**, Written Record of Interview of Witness Kaing Guek Eav alias Duch, 2 February 2016, ERN 01213426, A30-A32.

<sup>964</sup> **D114/169**, Written Record of Interview of Witness Seng Soeun, 11 February 2016, ERN 01213426, A28; **D54/60.2**, DC-Cam Statement of Moeng Vet, 13 August 2013, ERN 01212317.



#### 5.6.4 Victim numbers for purges of Divisions 164, 502, 310, and 117

329. The minimum number killed in the purges of Divisions 164, 502, 310, and 117 is **2,152**, based on the following calculation:

- i. 719 from Division 164 (not including those killed at charged sites in Kampong Som who are included in the numbers for those sites);
- ii. 478 from Division 502;
- iii. 928 from Division 310; and
- iv. 27 from Division 117.

### 5.7 Kang Keng and Bet Trang (“Ream Area”) Worksites

#### 5.7.1 Location and composition of the worksites and cooperatives

330. In the time of DK, Kang Keng area encompassed villages and cooperatives surrounding Kang Keng Airfield – the current Sihanoukville Airport – (“Airfield”) including Thma Thum, and, heading east from there along National Road 4, Ream, and Smach Daeng.<sup>965</sup> Bet Trang area was located northwest of the Airfield, on either side of National Road 4, and encompassed several villages including Au Prai, Bobos, Pou Thoeung, Kokir and Pra Bok.<sup>966</sup>

<sup>965</sup> **D234/2.1.58**, The Cambodian route network maps, ERN 00327772; **D54.45.2**, Geographical and Road Network Sihanouk Vill, 3 January 2014, ERN 00967555; **Thma Thum: D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050309-01050310, A20, A23; **Smach Daeng: D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170504, A168-A171; including Put Te/Puth Te: **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975221, A19; **D54/45**, Written Record of Interview of Witness Lon Seng, 12 December 2013, ERN 00975056, A27. See also **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278, A11-A12, ERN 00977281, A30; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170505-01170506, A190-A192, (stating that Bet Trang dam stretched to Pou Te Village, approximately three to four kilometres away, which is approximately the distance from Bet Trang to Smach Daeng); **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977301, Q&A17; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170558, A94, ERN 01170562, A166, (indicating that Ream port was close to the Coconut Plantation).

<sup>966</sup> Various alternative spellings in English for these locations: Ou Prai/Aur Pray; Puh Thoeung/Pu Thoeung/Pu Thoeang; Praboh/Prabok/Pra Bok. **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128189, A61, ERN 01128190, A72; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076766, A57-A58, ERN 01076771, A100-A101; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977876, A17; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977301, A17; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479303, A9; **D54/18**, Written Record of Interview of Witness Saroeun, 15 August 2013, ERN 00977278, A12; **D234/2.1.58**, The Cambodian route network maps, ERN 00327772.



331. The main Kang Keng worksite consisted of hundreds of hectares of rice fields around the Airfield (“Rice Field Worksite”).<sup>967</sup> Worksites included a coconut plantation near Ream Port and Ong village, delimited to the west by the sea, to the east by the Airfield, and to the north by the hills overlooking the Airfield (“Coconut Plantation”);<sup>968</sup> a brick kiln worksite, located opposite the Airfield entrance, used by Division 164 for construction projects (“Brick Kiln”);<sup>969</sup> a rock quarry, and a rice field at Au Mlou.<sup>970</sup> At least one production unit (referred to as the “*Big Production Unit*”) was located beside Smach Daeng,<sup>971</sup> where rice was also stored.<sup>972</sup>

<sup>967</sup> **D2/16**, Written Record of Interview of Witness Touch Soeuli, 11 November 2010, ERN 00629464, A21; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050319-01050320, A89-A90; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076770, A93, ERN 01076784-01076785, A215-A218, A223; **D114/58**, Written Record of Interview of Witness Sam Saom, 20 March 2015, ERN 01089950, A48-A49; **D114/105**, Written Record of Interview of Witness Koch Tuy, 19 August 2015, ERN 01172466, A136-A137; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251779, A110-A115; **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613018, A5, A8; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977876, A17; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977301, A17, ERN 00977302, A26; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180850, A2; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168313, A20; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178902, A19; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116312, A276-A280; **D114/122**, Written Record of Interview of Witness Nob Phan, 12 September 2015, ERN 01168327, A3, ERN 01168329, A12; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055464-01055465, A16-A17.

<sup>968</sup> Coconut Plantation: also sometimes referred to as Chamkar Doung/Daung or Cheng Heng, **D22.2.5**, List of military personnel, 28 August 1976, ERN 00950657; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207322, A59-A60; **D114/156.1**, Annex 1: Sketch of Places, 25 January 2016, ERN 01197078; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170556, A60, ERN 01170558, A90-A94; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001474, A29; **D54/41**, Written Record of Interview of Witness Or Saran, 7 December 2013, ERN 00975204, A19, ERN 00975205, A25; **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076873, A13; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074467, A273-A275; **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977855, A14; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A21; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116305, A166; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076862, A115, A118; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479292, A29.

<sup>969</sup> **D114/39**, Written Record of Interview of Witness Moul Chhin, 26 January 2015, ERN 01079211-01079212, 01079214, A2; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079222, A12; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076788, A245-A247; **D114/94**, Written Record of Interview of Civil Party Applicant Sam Vuthy, 22 July 2015, ERN 01134942, A62-A63, ERN 01134943, A71-A74; **D54/17**, Written Record of Interview of Witness Say Born, 14 August 2013, ERN 00977272-00977273, Q&A14, A18; **D54/45**, Written Record of Interview of Witness Lon Seng, 12 December 2013, ERN 00975056, A27; **D54/45.2**, Geographical and Road Network Sihanouk Ville, 2 January 2014 (filing date), ERN 00967555. *See also* **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076788, A246.

<sup>970</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116305, A166-A167, ERN 01116309, A230; **D114/76**, Written Record of Interview of Witness Svay Sameth, 26 May 2015, ERN 01113562, A21; **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01113562, A21; **D114/77.3**, Attachment 3: Sketch of Places, 27 May 2015, ERN 01517435.

<sup>971</sup> **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975056, A27; **D54/45**, Written Record of Interview of Witness Lon Seng, 12 December 2013, ERN 00975056, A27.





332. In addition to a metal-casting worksite in Bet Trang Pagoda,<sup>973</sup> and a charcoal-making site located southwest of National Road 4,<sup>974</sup> the main worksite in Bet Trang was a dam construction project for irrigating the rice fields around the Airfield (“Bet Trang Dam”).<sup>975</sup> There were also rice fields in the Bet Trang Dam area.<sup>976</sup>
333. Bet Trang Dam involved the construction of multiple dams and canals (as well as a concrete water gate and bridge) that straddled National Road 4 (to the southwest, Chamnaot Ream Dam, approximately two kilometres long; and, to the northeast, Pou Thoeung Dam, approximately three kilometres long);<sup>977</sup> the dam had a conical shape, with an estimated base width of about 25 metres, and a top width of about 10 metres.<sup>978</sup> Witnesses also refer to Bet Trang peripheral dams by the names of the villages they passed through such as Pou Thoeung, Au Prai, or Bobos.<sup>979</sup>

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Geographical and Road Network Sihanouk Ville, ERN 00967555. *See also* **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607256, A3. *Contra* **D114/202**, Written Record of Interview of Witness Or Saran, 26 April 2016, ERN 01306462, A29, ERN 01306463, A36.

<sup>972</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076788, A242.

<sup>973</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079222, A13, ERN 01079223, A16-A18; **D114/39**, Written Record of Interview of Witness Moul Chhin, 26 January 2015, ERN 01079212.

<sup>974</sup> **D114/179**, Written Record of Interview of Witness Sguon Chhum, 25 February 2016, ERN 01226857, A18-A22, ERN 01226860, A38, ERN 01226865, A58. *See also* **D54/120**, Written Record Interview of Witness Prom Kem, 18 August 2014, ERN 01151112, A4, ERN 01151113-01151114, A7.

<sup>975</sup> **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977279, A21. *See also* **D54/91**, Written Record of Interview of Witness Kuy Nen, 8 May 2014, ERN 01055511.

<sup>976</sup> **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479293, A40-A42; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278, A14; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128190, A78, ERN 01128191, A91.

<sup>977</sup> **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170505-01170506, A190-A192; **D54/91**, Written Record of Interview of Witness Kuy Nen, 8 May 2014, ERN 01055511; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056729, A36; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479303, A9, ERN 01479304, A16; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977279, A22; **D114/292**, Site Identification Report, 21 December 2016, ERN 01366049; **D114/99**, Site Identification Report, 22 July 2015, ERN 01125388, ERN 01125392, ERN 01125411; **D114/80**, Site Identification Report, 4 June 2015, ERN 01104558.

<sup>978</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079226, A29.

<sup>979</sup> Pou Thoeung: **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056729, A36; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184830, A102; **D114/243**, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479367, A93; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050319, A89. Au Prai and Bobos: **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977501, A17; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479303, A9; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278, A12.



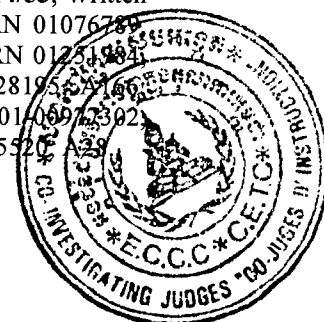
334. Kang Keng and Bet Trang workers lived in villages and cooperatives in both areas, including Smach Daeng, Ta Mao, Ou Prai, Pou Thoeung, and Babos.<sup>980</sup>

### 5.7.2 *Structure and personnel*

335. Throughout DK, Division 164 units and personnel controlled Ream Area worksites (including the Rice Field Worksite, the Brick Kiln, and the Big Production Unit).<sup>981</sup>

<sup>980</sup> **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278, A13-A15; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A14; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207318, A24; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056722-01056723, A2, ERN 01056725, A12. **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479305, A28-A29; **D114/94**, Written Record of Interview of Civil Party Applicant Sam Vuthy, 22 July 2015, ERN 01134941, A55, A60; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076765-01076766, A51-A58, ERN 01076771-01076772, A100-A101, A103, A106, A110, ERN 01076781-01076782, A184, A188-A189, ERN 01076791, A267; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168313, A23.

<sup>981</sup> **Bet Trang: D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607259, A24-A25; **D54/90**, Written Record of Interview of Kuy Nen, 5 May 2014, ERN 01056729, A36-A39; **D54/122**, Written Record of Interview of Witness Lak Saphan, 20 August 2014, ERN 01066710-01066711, A6-A8; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289, A11, ERN 01479295, A53; **D54/91**, Written Record of Interview of Witness Kuy Nen, 8 May 2014, ERN 01055512, A5; **D114/20**, Written Record of Interview of Witness Mak Chhoeun, 23 October 2014, ERN 01040455, A39-A41; **D114/58**, Written Record of Interview of Witness Sam Saom, 20 March 2015, ERN 01089946, A14-A16; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079225, A23-A25. *See also* **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076766, A59-A60; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207316, A15, ERN 01207332, A124, A126. **Kang Keng: Division 164 presence and control in Kang Keng area: D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013, ERN 00977316, A22; **D114/18**, Written Record of Interview of Witness Mak Chhoeun, 21 October 2014, ERN 01040426, A26-A28, ERN 01040427, A30; **D114/285**, Written Record of Interview of Witness Bun Sarat, 29 November 2016, ERN 01375297, A10, A13; **D54/17**, Written Record of Interview of Witness Say Born, 14 August 2013, ERN 00977271-00977272, A13-A15; **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613018, A1-A3; **D114/243**, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479364-01479365, A68-A73; **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152245, A12-A16; **D54/113**, Written Record of Interview of Witness Leang Bea, 28 July 2014, ERN 01134957, A12-A13; **D114/48**, Written Record of Interview of Witness Sok Ngou, 18 February 2015, ERN 01076706, A11, ERN 01076707, A14-A15; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076863, A121, ERN 01076864, A127; **D54/115**, Written Record of Interview of Witness Neak Yoeun, 6 August 2014, ERN 01032428, A13; **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076871, A1; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053538-01053539, A4-A6; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041, A19; **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118160-01118161, A30; **D114/116**, Written Record of Interview of Witness Svay Saman, 4 September 2015, ERN 01172473, A30; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184829, A93, A98; **D114/58**, Written Record of Interview of Witness Sam Saom, 20 March 2015, ERN 01089949, A44-A46. *See contra* **D114/273**, Written Record of Interview of Witness Ou Leang, 1 November 2016, ERN 01373246, A93. **Rice Field Worksite, Brick Kiln, and Big Production Unit: D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975221, A19; **D54/45**, Written Record of Interview of Witness Lon Seng, 12 December 2013, ERN 00975054, A17; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076781, A184-A185, ERN 01076789, A250-A253; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251981, A164; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128195, A17302; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977301, A17-A21; **D54/92**, Written Record of Interview of Witness Yem Sam On, 8 May 2014, ERN 01055522, A17-A21.



Division 164 regimental commanders Sari and Chhoeun gathered Bet Trang Dam workers on a daily basis and monitored work, and other senior CPK persons visited several times to measure progress and set deadlines;<sup>982</sup> Nhan, who later became a Division Deputy Commander, was in charge of and visited both the Rice Field Worksite, and the Au Mlou quarry, from mid-1975 until at least mid-1976; and Launh, in charge of the logistics in the Division and of Kampong Som port and workers, often visited the metal-casting site in Bet Trang Pagoda.<sup>983</sup> One former Rice Field worker from 1977 states that his mobile unit was under Meas Im (**Meas Muth's** brother, and Division Logistics Deputy),<sup>984</sup> who was in charge of the work at Rice Field Worksite and Bet Trang Dam.<sup>985</sup> Meas Im, however, denies having had responsibility other than for tractors at Stung Hav.<sup>986</sup> While he may have an incentive to downplay his own responsibility, there is in any event no other evidence regarding his wider responsibility for Ream Area worksites.

336. **Meas Muth** exercised control over the civilian administration in Kampong Som,<sup>987</sup> including over Ream Area.<sup>988</sup> During meetings of Division commanders, **Meas Muth**

<sup>982</sup> **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479295, A53-A54; **D114/20**, Written Record of Interview of Witness Mak Chhoeun, 23 October, 2014, ERN 01040455, A39-A41; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170506, A202-A204; **D54/122**, Written Record of Interview of Witness Lak Saphan, 20 August 2014, ERN 01066710-01066711, A6-A8. See also **D54/91**, Written Record of Interview of Witness Kuy Nen, 8 May 2014, ERN 01055512, A5.

<sup>983</sup> See *RAK structure and Meas Muth's roles and responsibilities*, paras 157, 159. **Nhan**: **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251785, A176-A179; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116305, A166, A177-A180, ERN 01116312, A271-A273, ERN 01116313, A285-A287. **Launh**: **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079223, A14-A15; see also **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076812-01076813, A22-A23.

<sup>984</sup> **D114/216**, Written Record of Interview of Witness Meas Im, 11 June 2016, ERN 01337007, A21, ERN 01337008, A27; **D54/70**, Written Record of Interview of Witness Mut Mao, ERN 00983620, A24.

<sup>985</sup> **D54/20**, Written Record of Interview of Witness Sam Som, 19 August 2013, ERN 00977295, A14; **D114/58**, Written Record of Interview of Witness Sam Saom, 20 March 2015, ERN 01089946, A14, A16.

<sup>986</sup> **D114/214**, Written Record of Interview of Witness Meas Im, 9 June 2016, ERN 01331619, A22-A25, ERN 01331621, A28-A29, A34; **D114/215**, Written Record of Interview of Witness Meas Im, 9 June 2016, ERN 01333478, A58.

<sup>987</sup> See *RAK structure and Meas Muth's roles and responsibilities*, para. 159.

<sup>988</sup> **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053540, A12, A14-A15; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180851-01180852, A9, A10; **D4.1.699**, Telegram 11 from Dim to Brother Mut, 24 September 1976, ERN 00143240; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050308-01050310, A13, A20-A21, ERN 01050311-01050312, A31-A33. See also **D59/1/4.25**, DC-Cam Statement of Long Ly, 18 April 2012, ERN 00970714; **D114/179**, Written Record of Interview of Witness Sguon Chhum, 25 February 2016, ERN 01226856, A14. See also **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050329, A153-A154, ERN 01050331, A165; **D114/96**, Written Record of Interview of Witness Cheng Leang, 25 July 2015, ERN 01142619, A9-A11.



reported on most issues in the Ream Area, including rice farming, food supply, health, arrests, deaths, and “*enemy situations*”, in particular to Son Sen.<sup>989</sup>

### 5.7.3 *Times of operation of the worksites*

337. The Rice Field Worksite operated from at least 1976, and stopped when the Vietnamese arrived in January 1979.<sup>990</sup> Au Mlou was operational no later than by mid- to late 1975,<sup>991</sup> the Brick Kiln by the end of 1975,<sup>992</sup> and the Coconut Plantation sometime during 1976.<sup>993</sup> The Brick Kiln operated until the Vietnamese arrived;<sup>994</sup> the Coconut Plantation until late 1978.<sup>995</sup> The end of operations at Au Mlou is unclear.<sup>996</sup>
338. Work on the Bet Trang Dam project continued throughout DK: having commenced by mid-1975, some parts were completed prior to 1979, while construction of others continued until the arrival of the Vietnamese.<sup>997</sup> Once dams were completed, some of

<sup>989</sup> **D1.3.27.18**, Minutes of the Meeting of Secretaries and Logistics of Divisions and Independent Regiments, 19 September 1976, ERN 00195341; **D1.3.27.22**, Minutes of the Plenary of the brigade/division committees/commanders, 21 November 1976, ERN 00656384; **D1.3.8.4**, Minutes of the Meeting of Comrades 164: Report on Vessel training, 9 September 1976, ERN 00657355. See also **D1.3.8.3**, Minutes of meeting of the military work in Kampong Som, 3 August 1976, ERN 00234012 (**Meas Muth** reporting at his Division level).

<sup>990</sup> **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128176, A8; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168314, A23; **D114/76**, Written Record of Interview of Witness Svay Sameth, 26 May 2015, ERN 01113562, A21; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178902-01178903, A20-A23, A25; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128190, A72, A76, A78; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076781, A184-A186, ERN 01076790, A261-A262, ERN 01076791, A267, ERN 01076798, A332, A336; **D114/58**, Written Record of Interview of Witness Som Saom, 20 March 2015, ERN 01089950, A48; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A15; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025195, A8, ERN 01025197, A17; **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613018, A5, ERN 00613019, A9; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607258, A15, ERN 00607259, A21, ERN 00607260, A30-A32.

<sup>991</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116305, A166-A167, ERN 01116309, A230, ERN 01116313, A284.

<sup>992</sup> **D54/17**, Written Record of Interview of Witness Say Born, 14 August 2013, ERN 00977272, A14.

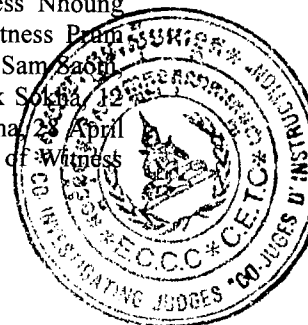
<sup>993</sup> **D114/243**, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479357, A10; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479304, A15.

<sup>994</sup> **D114/94**, Written Record of Interview of Civil Party Applicant Sam Vuthy, 22 July 2015, ERN 01134943, A72, ERN 01134944, A79.

<sup>995</sup> **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170556, A58, ERN 01170558, A92, ERN 01170574, A354, A364.

<sup>996</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116309, A230-A232.

<sup>997</sup> Commenced by mid-1975: **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056729, A35. Ongoing/commenced during DK: **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607260, A27; **D114/109**, Written Record of Interview of Witness Pram Sambat, 26 August 2015, ERN 01170506, A193; **D114/58**, Written Record of Interview of Witness Sam Saom, 20 March 2015, ERN 01089950, A48, A50; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 April 2013, ERN 00977876, A17; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180853, A16. Parts completed prior to 1979: **D54/90**, Written Record of Interview of Witness



the workers were assigned to farm rice.<sup>998</sup> The metal-casting worksite operated from 1975 to 1979.<sup>999</sup>

#### 5.7.4 Workforce

339. While a few active Division 164 soldiers also temporarily worked at Ream Area worksites,<sup>1000</sup> the Ream Area workforce was mostly composed of demobilised Division 164 soldiers,<sup>1001</sup> former East Zone soldiers,<sup>1002</sup> and civilians including children, women, the elderly, from soldiers' families, and '17 April people'.<sup>1003</sup>

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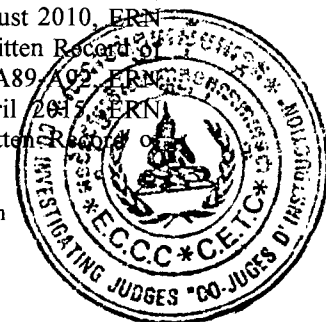
Kuy Nen, 5 May 2014, ERN 01056729, A36; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142629, A73; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076789-01076790, A257-A259; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278-00977280, Q13, A15, A23. Ongoing until Vietnamese arrival: **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170506, A199.

<sup>998</sup> **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607260, A31-A32; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977279-00977280, A23; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289, A7-A9, ERN 01479290, A15, ERN 01479293, A40-A42. *See also* **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977876, A17.

<sup>999</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079223-01079224, A16-A18.

<sup>1000</sup> **D54/17**, Written Record of Interview of Witness Say Born, 14 August 2013, ERN 00977272, A14; **D2/9**, Written Record of Interview of Witness Say Born, 7 September 2010, ERN 00613018, A1-A3, A5, ERN 00613019, A13, A16; **D54/41**, Written Record of Interview of Witness Or Saran, 7 December 2013, ERN 00975204, A16-A17, A19-A20, ERN 00975205, A25; **D54/87**, Written Record of Interview of Witness Prum Sarat, 29 April 2014, ERN 01055464-01055465, A12, A14-A18; **D114/76**, Written Record of Interview of Witness Svay Sameth, 26 May 2015, ERN 01113562, A21; **D114/58**, Written Record of Interview of Witness Sam Saom, 20 March 2015, ERN 01089946, A13, A16, 01089950, A48; **D114/57**, Written Record of Interview of Witness Sam Saom, 19 March 2015, ERN 01089937, A5; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479295, A55. *See also* **D22.2.5**, List of Army Forces for 1 to 27 August 1976 for Unit 164, 28 August 1976, ERN 00950657.

<sup>1001</sup> **Kang Keng: D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056669, A89-A92, ERN 01056671, A107, ERN 01056680, A168-A172; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178900, A5, ERN 01178902, A19, ERN 01178903, A21; **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182, A3, ERN 01025183, A7, ERN 01025185, A12-A13; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074507, A1, 01074509-01074510, A10, ERN 01074514, A29-A30, A32, ERN 01074516, A41; **D54/20**, Written Record of Interview of Witness Sam Som, 19 August 2013, ERN 00977291, A2, ERN 00977295, A14; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168313-01168314, A20-A22, A24; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251779-01251780, A110-A113, A116, A120; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412593, lines 3-6, 16-25, ERN 01412594, lines 1-11, ERN 01412624, lines 14-22, ERN 01412627, lines 9-16; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116305, A165-A169. *See also* **D114/146**, Written Record of Interview of Witness Uy Nhoek, 14 December 2015, ERN 01185630-01185631, A49. **Bet Trang: D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128188, A46-A47, ERN 01128189, A61-A63, ERN 01128190, A72; **D54/35**, Written Record of Interview of Brak Sokha, 12 November 2013, ERN 00977875, A14, ERN 00977876, A17; **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975221, A19; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607257, A9, ERN 00607258, A13, ERN 00607259-00607260, A20, A24-A28; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056659, A18, ERN 01056669, A89, ERN 01056671, A107; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180849-01180850, Investigator's note, A2, ERN 01180853-01180854, A16; **D54/36**, Written



340. Demobilised soldiers and civilians were sent to Ream Area worksites because they had “made mistakes”, were considered “bad elements”, untrustworthy, in need of re-education and “tempering” through hard labour, or because their superiors had been arrested.<sup>1004</sup> This included people who had been captured and then released by the Vietnamese.<sup>1005</sup>

Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A2, ERN 00977300, A11, ERN 00977301, A16-A17; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170500, A78-A79, ERN 01170503, A135-A138, A145, ERN 01170505, A190, ERN 01170506, A194-A195, ERN 01170509, A259-A260. See also **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170504, A172 (indicating overlap of Bet Trang and Kang Keng workers).

<sup>1002</sup> **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A2, ERN 00977300, A11, ERN 00977301, A17; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041, A19; **D54/44**, Written Record of Interview of Lon Seng, 11 December 2013, ERN 00975229, A19, ERN 00975230, A22; **D54/45**, Written Record of Interview of Witness Lon Seng, 12 December 2013, ERN 00975053, A13-A14. See also **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509-01074510, A10; **D59/2.2.14a**, DC-Cam Statement of Leang Bie, 22 May 2011, ERN 01333456-01333457.

<sup>1003</sup> **Kang Keng: Civilians: D2/17**, Written Record of Interview of Witness In Saroeun, 12 November 2010, ERN 00628148, A50. **Children: D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2016, ERN 01479338, A9, ERN 01479340, A28-A30, ERN 01479344, A57; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207315, A2, A4, ERN 01207316, A12-A14, ERN 01207332, A126; **D54/121**, Written Record of Interview of Witness Lin Sarin, 19 August 2014, ERN 01066699, A2; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479303-01479304, A15-A17, ERN 01479305, A24, A27, ERN 01479307, A46-A47; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479290, A15, ERN 01479292, A29. **Women: D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479290, A15; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076762-01076763, A24, A31-A33, ERN 01076775, A130-A131, A137, ERN 01076776, A143, ERN 01076785, A216-A220; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170559, A106. **Elderly: D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2016, ERN 01479343, A50-A53. **17 April People: D114/94**, Written Record of Interview of Civil Party Applicant Sam Vuthy, 22 July 2015, ERN 01134940, A44-A46, ERN 01134943, A74; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A2, A6, ERN 00977300, A11, ERN 00977301, A17, ERN 00977302, A26; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412594, lines 6-21, ERN 01412627, lines 8-12. **Khmer Krom: D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A6-A7, ERN 00977300, A10-A11, ERN 00977301, A17. **Bet Trang: Civilians (including women, children, elderly and 17 April people): D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207339, A188-A189; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142629, A72; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184830-01184831, A102, A106-A109; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278, A13-A14, ERN 00977279, A17; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479303-01479304, A9, A11, A15-A17, ERN 01479305, A24-A27, ERN 01479307, A46-A47; **D114/243**, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 0147967, A95-A96, ERN 0147968, A98-A102; **D54/121**, Written Record of Interview of Witness Lin Sarin, 19 August 2014, ERN 01066699, A2; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076765-01076766, A51-A58, ERN 01076771, A100-A101, A103, ERN 01076772, A106, A110; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050308-01050310, A13, A20-A21, A23-A25; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A2, ERN 00977300, A11, ERN 00977301, A17.

<sup>1004</sup> **Kang Keng: D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607260, A28; **D54/20**, Written Record of Interview of Witness Sam Som, 19 August 2013, ERN 00977299, A2, 00977295, A14; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977875, A14, ERN 00977876, A17; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A1-A2, ERN 00977301, A16-A17; **D54/97**, Written Record of Interview of



341. Determining precise numbers of workers is impossible because (i) the worksites operated at different times, (ii) numbers constantly fluctuated as workers stayed for different lengths of time and worked at different sites within Ream Area;<sup>1006</sup> and (iii) it is not possible to identify the exact location and delineation of worksites (or parts thereof) referred to by witnesses who often gave the numbers of their own worksite or unit, rather than a location. The risk of double-counting is therefore significant. During a meeting of secretaries and chiefs of divisions and regiments in September 1976, **Meas Muth** reported that the rice production workforce of Division 164 counted 17,000 people, soldiers and civilians together.<sup>1007</sup> Since it cannot be excluded that the 17,000 included rice workers from other sites in Kampong Som, it has not been relied upon to establish numbers of workers in Ream Area. Yet, a list of Division 164 military personnel from 28 August 1976 shows that 400 disabled soldiers and children were at

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Witness Khoem Yat, 23 May 2014, ERN 01074509-01074510, A10, ERN 01074514, A29-A33; **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182, A3, ERN 01025183, A7, ERN 01025185, A12-A13; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180850, Q&A2; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041, A19; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119978-01118879, A5, A7, A12; **D114/76**, Written Record of Interview of Witness Svay Sameth, 26 May 2015, ERN 01113562, A21; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168313-01168314, A20-A22; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178900, A3, ERN 01178902, A19, ERN 01178903, A21; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251784, A162, A165-A166; **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977836, A14, ERN 00977840, A33; **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975221, A19; **D54/44**, Written Record of Interview of Lon Seng, 11 December 2013, ERN 00975227, A6; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170500, A75, A78-A79, ERN 01170501, A101, A109-110, ERN 01170503, A135, A137; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412593, lines 15-19, ERN 01412624, lines 1-22; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053541, A21. **Bet Trang: D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128189, A61-A63, ERN 01128190, A72, A78; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A1-A2, ERN 00977301, A16-A17; **D114/105**, Written Record of Interview of Witness Koch Tuy, 19 August 2015, ERN 01172455, A18, ERN 01172456, A29, ERN 01172460, A79, ERN 0117461, A86, ERN 01172462, A90.

<sup>1005</sup> **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251779-01251780, A110-A113, A120; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A1-A2, ERN 00977301, A17; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116304, A150, ERN 01116305, A165-A169.

<sup>1006</sup> **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A4, ERN 00977301, A17; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977876, A17; **D54/20**, Written Record of Interview of Witness Sam Som, 19 August 2013, ERN 00977295, A14; **D114/57**, Written Record of Interview of Witness Sam Saom, 19 March 2015, ERN 01089937, A5; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076785, A220; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116309, A230-A231; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509, A10; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119978, A7, ERN 01119980, A15-A16; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289, A10. *See also* **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170504, A172.

<sup>1007</sup> **D1.3.27.18**, Minutes of the Meeting of Secretaries and Logistics of Divisions and Independent Regiments 19 September 1976, ERN 00195341.



the Coconut Plantation (referred to as “Chamkar Daung”) and that 176 soldiers and cadres were at the Brick Kiln.<sup>1008</sup> Further, witnesses estimate that the workforce ranged from one hundred to 3,000 at the Rice Field Worksite;<sup>1009</sup> thousands in the “*Big Production Unit*”;<sup>1010</sup> over 100 at the Brick Kiln;<sup>1011</sup> at least 30 at the Coconut Plantation;<sup>1012</sup> and from hundreds to thousands at Bet Trang worksites.<sup>1013</sup> It is therefore reasonable to conclude that over the course of the Regime, the overall workforce at Ream Area worksites represented several thousands of workers; an absolute conservative minimum estimate based on avoiding the risk of double-counting being **2,000**.

### 5.7.5 *Living and working conditions*

342. Living conditions in Ream Area were very difficult: people were denied a normal family life and the exercise of their religion;<sup>1014</sup> food was insufficient for the vast majority,<sup>1015</sup> with daily food provisions varying from only small amounts of porridge or

<sup>1008</sup> **D22.2.5**, List of military personnel, 28 August 1976, ERN 00950657.

<sup>1009</sup> **One hundred: D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076785, A216, A221. **Several hundred: D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168313-01168314, A20-A24; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607259, A20, A24, ERN 00607260, A26-A27, A31-A32. **One thousand: D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251780, A113, ERN 01251784, A162-A165. **Three thousand: D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116312, A276-A278.

<sup>1010</sup> **D54/43**, Written Record of Interview of Witness Lon Seng, 10 December 2013, ERN 00975221, A19.

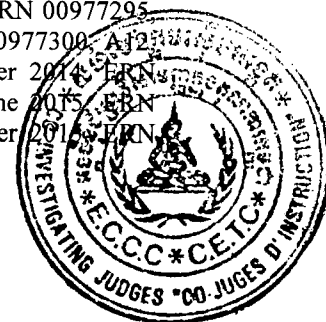
<sup>1011</sup> **D54/17**, Written Record of Interview of Witness Say Born, 14 August 2013, ERN 00977272, A14.

<sup>1012</sup> **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170558, A92.

<sup>1013</sup> **Hundreds: D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479303-01479304, A15-A17, ERN 0147305, A24; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479380, A17, A21-A22, ERN 01479380, A27-A28; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079224-01079225, A19, A21, A25; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977279, A16; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142629, A69, A72; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607260, A26-A27; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A1-A2, A4, ERN 00977301, A17; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207339, A188, A191. **Hundreds or thousands: D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289, A12, ERN 01479291, A26, ERN 01479293, A45; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184830-01184831, A102, A106-A109; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056730, A41.

<sup>1014</sup> **D54/120**, Written Record Interview of Witness Prom Kem, 18 August 2014, ERN 01151111, A3; **D114/94**, Written Record of Interview of Civil Party Applicant Sam Vuthy, 22 July 2015, ERN 01134938, A30; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168316, A36, ERN 01168319, A48. *See also* **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076794, A293-A295, ERN 01076795, A299, ERN 01076798, A333.

<sup>1015</sup> **Kang Keng: D54/20**, Written Record of Interview of Witness Sam Som, 19 August 2013, ERN 00977295, A14; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977300, A12; ERN 00977301, A17; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050321, A99-A101; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A12; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN





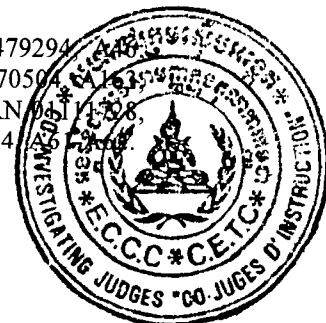
rice gruel, sometimes in addition to a big bowl of soup between two people, or one can of rice between four to 10 people.<sup>1016</sup> Some, including guards, received sufficient food, while those that could not work, such as the elderly and sick, received less than workers.<sup>1017</sup> People died from starvation.<sup>1018</sup>

01168314, A23, ERN 01168316, A32; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178903-01178904, A27-A29; **D114/109**, Written Record of Interview of Witness Prum Sambath, 26 August 2015, ERN 01170504, A157-A159, A165, ERN 01170505, A181; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251784, A166-A167; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074515, A36; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116313, A282. Bet Trang: **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128191, A82-A84; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289-01479290, A12-A14; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607260, A29; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977300, A12-A13; **D54/120**, Written Record of Interview of Witness Prom Kem, 18 August 2014, ERN 01151111-01151112, A3-A4, ERN 01151113-01151114, A7; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479380, A25-A26. *See also* **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079227, A32. *See contra* **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076772-01076773, A110-A113, ERN 01076783, A202; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479304, A23; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142629, A70 (labelled as “Q”, prior to A70); **D54/92**, Written Record of Interview of Witness Yem Sam On, 8 May 2014, ERN 01055521, A29; **D54/17**, Written Record of Interview of Witness Say Born, 14 August 2013, ERN 00977272, A14.

<sup>1016</sup> Porridge/rice gruel: **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056730, A40; **D114/179**, Written Record of Interview of Witness Sguon Chhum, 25 February 2016, ERN 01226855, A11; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142620, A17, ERN 01142621, A23; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289, A8, ERN 01479290, A13-A14; **D114/243**, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479366, A85; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977300, A12, ERN 00977301, A17; **D54/120**, Written Record of Interview of Witness Prom Kem, 18 August 2014, ERN 01151111-01151112, A3-A4; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111727-01111728, A1. Soup: **D114/94**, Written Record of Interview of Civil Party Applicant Sam Vuthy, 22 July 2015, ERN 01134941, A54-A57, ERN 01134942, A65-A66; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056672, A114; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207323, A68-A69, A71; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251784, A166. One can of rice for four: **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050310, A23-A25; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479380, A25-A26.

<sup>1017</sup> **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251784, A166-A167; **D114/109**, Written Record of Interview of Witness Prum Sambath, 26 August 2015, ERN 01170504, A165, ERN 01170505, A182; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479294, A46; **D54/120**, Written Record of Interview of Witness Prom Kem, 18 August 2014, ERN 01151111-01151112, A3; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056725, A16. *See also* **D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2016, ERN 01479344, A61-A62; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251784, A167; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142629, A70 (labelled as “Q”, prior to A70).

<sup>1018</sup> **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479294; **D114/109**, Written Record of Interview of Witness Sambath Prum, 26 August 2015, ERN 01170504, A165. *See also* **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111727, A1; **D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2017, ERN 01479334.



343. Many suffered from malaria.<sup>1019</sup> While some who were sick were allowed to rest, to go to hospital, or received treatment,<sup>1020</sup> others were deprived of treatment or food, forced to work, or beaten, or removed and disappeared.<sup>1021</sup> Some died as a consequence of a lack of proper medication or treatment.<sup>1022</sup> One witness states it occurred daily in one cooperative.<sup>1023</sup> Although he mentions “*Prek Chak*”, the witness is in fact referring to Bet Trang, based on his visit to and interviews regarding the location.<sup>1024</sup>
344. Work was predominantly building dams and farming rice, mostly by manual labour, with very basic equipment, although there is some evidence that tractors and animals were used for ploughing.<sup>1025</sup> Working conditions were very difficult.<sup>1026</sup> Overworked,

<sup>1019</sup> **D114/202**, Written Record of Interview of Witness Or Saran, 26 April 2016, ERN 01306463, A33; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207323-01207324, A73; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A117; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168316, A34.

<sup>1020</sup> Ask for leave/allowed rest: **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168316, A33; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128191, A95; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479381, A41. Hospital/treatment: **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977301, A14; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207323-01207324, A73; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079227, A31; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A117, A120-A121; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168316, A33; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170504, A162; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A14.

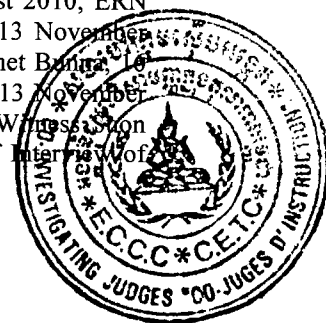
<sup>1021</sup> Deprived of treatment or food: **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A14; **D54/120**, Written Record Interview of Witness Prom Kem, 18 August 2014, ERN 01151111-01151112, A3. Forced to work: **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A117; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050330, A158-A160; *see also* **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178904, A28. Removed: **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278, A15; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A117. *See also* **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170558, A105.

<sup>1022</sup> **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207325, A81; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050313, A40-A41; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A117, A120-A121. *See contra* **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317, A37.

<sup>1023</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A121. *See also* **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207325, A81.

<sup>1024</sup> **D114/39**, Written Record of Interview of Witness Moul Chhin, 26 January 2015, ERN 01079212; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079222.

<sup>1025</sup> Building dams: **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A12; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168314, A23-A24; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607259-00607260, A24-A26; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977300, A12. Farming rice: **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A12; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977301, A17, ERN 00977302, A26; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168313-01168314, A20, A22; **D114/122**, Written Record of Interview of



emaciated, often sick, with neither enough food nor sleep, most workers were forced to work to the point of exhaustion.<sup>1027</sup> Afraid of being punished, arrested, or killed, workers dared not complain.<sup>1028</sup>

Witness Nob Phan, 12 September 2015, ERN 01168327, A3, ERN 01168329, A12; **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251779, A110-A113; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128189, A61, ERN 01128190, A71-A72, A78; **D114/76**, Written Record of Interview of Witness Svay Sameth, 26 May 2015, ERN 01113562, A21; **D54/41**, Written Record of Interview of Witness Or Saran, 7 December 2013, ERN 00975205, A25; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076781, A184-A187; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050330, A158-A160; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479293, A42. **Manual labour/basic equipment: Kang Keng: D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509, A10; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025196-01025197, A16. **Bet Trang: D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170506, A197; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479293, A44. **Tractors: D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076785, A218, ERN 01076786, A227. **A number of other tasks existed: Greeting guests and cooking rice at the Airfield: D114/273**, Written Record of Interview of Witness Ou Leang, 1 November 2016, ERN 01373245, A72. **Brick Kiln: D54/17**, Written Record of Interview of Witness Say Born, 14 August 2013, ERN 00977272, A14. **Breaking stone at Au Mlou: D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116305, A166, A175, A177-A181. **Transporting coconuts: D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152246, A17. **Repairing railroad tracks: D54/92**, Written Record of Interview of Witness Yem Sam On, 8 May 2014, ERN 01055516, A8, ERN 01055520-01055521, A27-A28.

<sup>1026</sup> **Kang Keng: D114/76**, Written Record of Interview of Witness Svay Sameth, 26 May 2015, ERN 01113562, A21; **D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2016, ERN 01479344, A59; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050321, A102-A104. *See contra:* **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168316, A32; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076775, A130-A143; **D59/1/4.21**, DC-Cam Statement of Uk Sok, 8 April 2012, ERN 01070622; **D54/92**, Written Record of Interview of Witness Yem Sam On, 8 May 2014, ERN 01055521, A29. **Bet Trang: D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128190, A79; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142629, A69; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050314, A45-A46; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479293, A39; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079227, A31-A32; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607260, A29; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056730, A40.

<sup>1027</sup> **Bet Trang: D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056672, A113, A115, ERN 01056673, A117, ERN 01056674, A130; **D2/6**, Written Record of Interview of Witness Nhoung Chrong, 24 August 2010, ERN 00607260, A29; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079224, A20, ERN 01079227, A31; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142620, A17, ERN 01142621, A23; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128194, A146, ERN 01128196, A190. **Kang Keng: D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A12; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178904, A32; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168314, A23, ERN 01168316, A33; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050321, A99-A101; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074515, A36; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111727-01111728, A1.

<sup>1028</sup> **Kang Keng: D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01118879, A9; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509, A10, ERN 01074514, A29-A31; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178905, A39-A41; **D54/120**, Written Record Interview of Witness Prom Kem, 18 August 2014, ERN 01079358, A13-A14; **D114/243**, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479358, A13-A14; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050321, A103-A104; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September



345. Most workers started work between 5 and 7 a.m. and usually worked until 11 a.m.; they would resume from 1 p.m. until 5 to 7 p.m., with some working later until 8, 9, or even 10 p.m.,<sup>1029</sup> with no leave.<sup>1030</sup> Some day-workers at Bet Trang had to take turns monitoring the water level at the dam all night with no rest the following day;<sup>1031</sup> elsewhere, 'guard duty' against potential thieves was two hours every night.<sup>1032</sup> Some had to walk an hour to and from their worksite.<sup>1033</sup>

2015, ERN 01168316, A33. *See also* **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116313, A282-A283. **Bet Trang: D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050322-01050323, A110-A113; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A118-A119; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128191, A85-A92; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977300-00977301, A12-A15; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142619, A13-A14; **D54/90**, Written Record of Interview of Kuy Nen, 05 May 2014, ERN 01056730-01056731, A43. *See also* **D114/179**, Written Record of Interview of Witness Sguon Chhum, 25 February 2016, ERN 01226854-01226855, A9-A10, ERN 01226863, A49, ERN 01226864, A52, ERN 01226867, A63.

<sup>1029</sup> **Kang Keng: Rice Field Worksite: D54/20**, Written Record of Interview of Witness Sam Som, 19 August 2013, ERN 00977295, A14; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025196-01025197, A16; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050322, A107; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076786, A229-A230; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A12; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168314, A23; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178903, A27; **D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2016, ERN 01479341, A37, ERN 01479334, A60; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170503, A150. **Coconut Plantation: D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170558, A95; **D114/243**, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479360, A34; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207323, A68. **Au Mlou: D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116305-01116306, A166, A175, A177-A183. **Bet Trang: D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479293, A43, ERN 01479295, A53; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056726, A19, ERN 01056730, A41-A42; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977300, A12, ERN 00977301, A17; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056672, A113; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479304, A18, ERN 01479308, A51; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050314, A47, ERN 01050330, A158-A161; **D114/243**, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479368, A103; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128190-01128191, A75, A79-A81. *See contra* **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079226, A27.

<sup>1030</sup> **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050322, A107; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142622, A24; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168316, A35-A36; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178905, A38. *See contra* **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207342, A215.

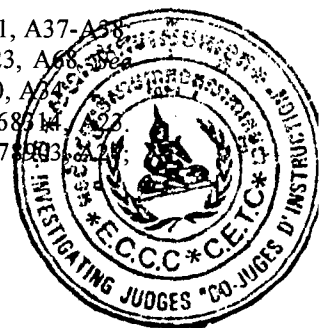
<sup>1031</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079224-01079225, A21-A22. *See also* **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142629, A69.

<sup>1032</sup> **D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2016, ERN 01479341, A37-A38; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207323, A68.

*also* **D114/243**, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479360, A243-A244.

<sup>1033</sup> **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168314, A23.

*See also* **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178903, A27.



346. In most worksites, workers were supervised and/or guarded, sometimes by armed soldiers.<sup>1034</sup> Although there were limited exceptions,<sup>1035</sup> freedom of movement was as a rule restricted, to the point that several witnesses likened it to being detained.<sup>1036</sup> Workers considered lazy or disloyal were punished with harder labour.<sup>1037</sup> Being criticised four times at the daily evening meetings could result in a worker being killed.<sup>1038</sup>
347. Often unachievable daily quotas were set.<sup>1039</sup> Workers who failed to meet them received extra work, were not given any rest, or given smaller food rations or deprived

**D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056726, A19, ERN 01056730, A41-A42.

<sup>1034</sup> **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170503, A138, A145-A146, ERN 01170504-01170505, A172-A173; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178904, A30-A31; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050314, A46, A48, ERN 01050320, A92-A95, ERN 01050331, A168; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056716, A25; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056672-01056673, A116, A122; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977279, A19; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170558, A92; **D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2016, ERN 01479334, A55; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479295, A53-A58; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074514, A32. *See also* **D54/122**, Written Record of Interview of Witness Lak Saphan, 20 August 2014, ERN 01066711, A8; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479304, A20-A22. *See contra* **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168315-01168316, A25-A31; **D114/240**, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479306, A33.

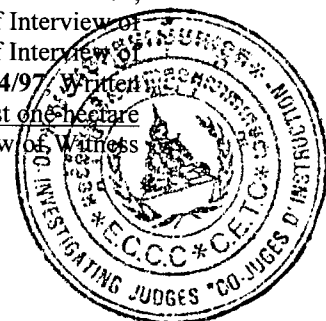
<sup>1035</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079227, A27; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207342, A215.

<sup>1036</sup> **Kang Keng: D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168316, A33, A36; **D114/135**, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178902, A19, ERN 01178905, A38-A41; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074515, A35; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170503, A138-A139, ERN 01170505, A173; **D114/94**, Written Record of Interview of Civil Party Applicant Sam Vuthy, 22 July 2015, ERN 01134944, A80-A81, ERN 01134947, A102, A104; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170559, A126; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289, A8; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A12. **Bet Trang: D114/179**, Written Record of Interview of Witness Sguon Chhum, 25 February 2016, ERN 01226858, A26, ERN 01226867, A63; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142621, A21-A22. *See also* **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128189, A61.

<sup>1037</sup> **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A12; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128192, A105; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050314, A45-A46, ERN 01050320, A92-A95; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A122.

<sup>1038</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A116, ERN 01056674, A123-A125.

<sup>1039</sup> **Kang Keng: D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479381, A29-A30. 1,600 coconuts a day per 30 workers, 200 each individual: D114/117, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170558, A92, A95; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207328, A98. Hoe one hectare per group of 25: D54/97, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509-01074510, A10. Harvest one hectare between four, or two hectares of rice per one and a half days: D114/6, Written Record of Interview of Witness



of food until completion; some were admonished in meetings, beaten or were “*removed and vanished*”.<sup>1040</sup> Beatings also occurred as punishment for mistakes, such as failing to work hard enough, falling asleep on guard duty, even in cases of children.<sup>1041</sup>

#### 5.7.6 *Transfers, arrests and disappearances*

348. Transfers to and from and between Ream Area units and worksites were frequent,<sup>1042</sup> with parents and children often separated.<sup>1043</sup> Workers (generally accused of having

Yin Teng, 7 October 2014, ERN 01050312, A35-A36, ERN 01050319-01050320, A89-A90. Break 7 cubic metres of stone: D114/79, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116305, A166, A175, A177-A181. Bet Trang: 12 workers “complete” one hectare of rice field: D114/239, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289, A9. Dig/carry several cubic metres of soil: D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056672, A112; D114/40, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079224, A20; D54/18, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278, A15; D54/90, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056730, A42; D114/6, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050314, A45; D54/36, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977300, A12, ERN 00977301, A17; D114/109, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170506, A198; D114/240, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479304, A19-A20. *See contra* D114/83, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128178, A24; D114/94, Written Record of Interview of Civil Party Applicant Sam Vuthy, 22 July 2015, ERN 01134944, A75-A78; D114/243, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479368, A102.

<sup>1040</sup> Kang Keng: D114/109, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170504, A156, A160; D234/2.1.64, Summary of Complaint of Neak Yan, 19 May 2009, ERN 00445712; D114/156, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207328, A98; D114/6, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050320-01050321, A90-A91, A96-A98. *See also* D54/91, Written Record of Interview of Witness Kuy Nen, 8 May 2014, ERN 01055512, A5-A6. *See contra* D114/117, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170558, A96. Bet Trang: D114/240, Written Record of Interview of Witness Phin Venh, 5 August 2016, ERN 01479304, A22; D54/36, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977300, A12; D114/6, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050314, A47; D114/31, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056672, A112; D54/18, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278, A15.

<sup>1041</sup> D114/243, Written Record of Interview of Witness Thork Sen, 29 August 2016, ERN 01479360-01479361, A31, A34-A46, ERN 01479369-01479370, A111-A116; D114/89, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128188, A46, ERN 01128191, A91, ERN 01128195, A160-A163. *See contra* D114/202, Written Record of Interview of Witness Or Saran, 26 April 2016, ERN 01306462, A32 (did not see any mistreatment); D114/135, Written Record of Interview of Witness Nub Phorn, 26 October 2015, ERN 01178904, A32 (did not see mistreatment, but heard about it).

<sup>1042</sup> Kang Keng: D114/156, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207316, A12-A13, ERN 01207317, A22, ERN 01207318, A31, ERN 01207332, A124; D114/122, Written Record of Interview of Witness Nob Phan, 12 September 2015, ERN 01168329, A12; D54/92, Written Record of Interview of Witness Yem Sam On, 8 May 2014, ERN 01055518, A9-A10; D114/53, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076763, A36, ERN 01076764, A40-A41, ERN 01076766, A62, ERN 01076767, A66-A67, ERN 01076785, A220; D114/109, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170500, A78-A79, ERN 01170501, A101, A108-A109, ERN 01170502, A112, ERN 01170504, A172; D114/57, Written Record of Interview of Witness Sam Saom, 19 March 2015, ERN 01089937, A5, D114/79, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116309, A230-A231; D54/97, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509, A10. Bet Trang: D114/65, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180853-01180854, A16; D54/36, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A2, A4, ERN 00977301, A17; D114/34, Written Record of Interview of Civil Party Applicant Nap Somaly, 22 January 2015, ERN 01069362, A67; D114/240, Written Record of Interview of Witness Phin



committed “*offences*”) were sent to Stung Hav, Toek Sap, or the Durian Plantation.<sup>1044</sup> None of these transferred workers were counted as victims of killings or enforced disappearances in this section.

349. While two witnesses state that “*soldiers always came to arrest two or three people every 3 or 4 days [...] in broad daylight*”,<sup>1045</sup> and that “*one or two families disappeared each night*”,<sup>1046</sup> their accounts do not accord with the bulk of the evidence and are considered unreliable regarding frequency and numbers. Nevertheless, the evidence supports the conclusion that people were removed, never to return, on an irregular but ongoing basis. Such removals generally occurred clandestinely at night, but fellow workers, some of whom lived in the same group together, noticed the disappearances.<sup>1047</sup> Removed people included individuals who were sick, had stolen

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Venh, 5 August 2016, ERN 01479305, A27; **D54/121**, Written Record of Interview of Witness Lin Sarin, 19 August 2014, ERN 01066700, A10; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128176-01128177, A8; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289, A10.

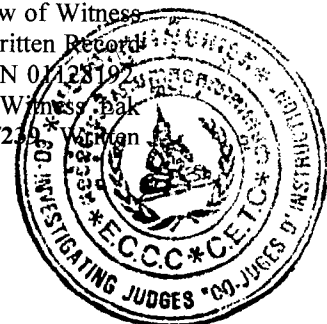
<sup>1043</sup> **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479290, A15-A18; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207316, A12-A14; **D114/243**, Written Record of Interview of Witness Thork Sen, 9 August 2016, ERN 01479357, A10, ERN 01479358, A13; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050311, A26, ERN 01050331-01050332, A170-A171.

<sup>1044</sup> **Stung Hav: D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977876, A17; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479382, A42-A45; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170501, A101, ERN 01170507, A210-A212, A224; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168314, A23, 01168317-01168318, A42; **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116306, A184, A186, ERN 01116309, A230-A231, ERN 01116313, A286-A287; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A15-A16; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197, A17. **Durian Plantation and Toek Sap: D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A4, A6, ERN 00977302, A22; **D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2016, ERN 01479347, A83-A84, ERN 01479349, A99; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170503, A139-A140; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711-01056713, A5-A11; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056724, A10, ERN 01056725-01056726, A13, A17-A18.

<sup>1045</sup> **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056730-01056731, A43-A44.

<sup>1046</sup> **D54/123**, Written Record of Interview of Witness Lak Saphan, 21 August 2014, ERN 01066717, A2.

<sup>1047</sup> **Kang Keng: D54/115**, Written Record of Interview of Witness Neak Yoeun, 6 August 2014, ERN 01032428, A13, ERN 01032429, A19-A20; **D114/116**, Written Record of Interview of Witness Svay Saman, 4 September 2015, ERN 01172473, A27-A33; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979, A14; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977279, A18; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076777, A152-A163; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207330, A112-A113, ERN 01207333, A135; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050310, A23, ERN 01050311, A26; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170562-01170563, A165-A190. **Bet Trang: D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128188, A46, ERN 01128191, A91, ERN 01128197, A102-A104, A111, ERN 01128195, A165, A166; **D54/122**, Written Record of Interview of Witness Brak Saphan, 20 August 2014, ERN 01066709-01066711, A5-A6, ERN 01066712, A11-A12; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479289, A10.





something or confronted worksite leaders, or were viewed as lazy, spies, criminals, enemies or linked to the former regime.<sup>1048</sup> There is no evidence of detention beyond arrests and transfers.

350. Three larger operations were carried out targeting Khmer Krom and '17 April people':

- i. During the first, many Khmer Krom (and Khmer who pretended to be Khmer Krom) disappeared after being asked to register to be sent to Vietnam.<sup>1049</sup> In late 1975, at least six Khmer Krom families and two Khmer families disappeared after being taken by soldiers during the night.<sup>1050</sup> The only reasonable conclusion is that these people were killed.
- ii. In April or May 1977, a witness saw six Kampong Som military trucks, which he estimates carried 60 people each, taking people out of Smach Daeng after it was announced that anyone who wished to go to Vietnam could board. The trucks went down a road that was blocked, preventing any further progress, towards a mountain to the west of Toek Sap Canal. When the trucks returned

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Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479291, A21-A26, ERN 01479294, A48-A50; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711, A5, ERN 01056712, A7, A9. *See also* **D1.3.27.20**, Minutes of the Meeting of Secretaries and Deputies of Divisions and Independent Regiments about Situation to defense the country and the measure to defense the country, 9 October 1976, ERN 00940340. *See also* **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207331, A118-A121, ERN 01207340, A198-A201. *See contra* **D114/186**, Written Record of Interview of Witness Sath Chak, 14 March 2016, ERN 01251785, A173-A175; **D114/202**, Written Record of Interview of Witness Or Saran, 26 April 2016, ERN 01306463, A33.

<sup>1048</sup> **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977278, A15; **D114/109**, Written Record of Interview of Witness Prum Sambath, 26 August 2015, ERN 01170505, A178-A179, ERN 01170507, A217-A218; **D54/122**, Written Record of Interview of Witness Lak Saphan, 20 August 2014, ERN 01066709-01066710, A5, ERN 01066712, A12; **D54/119**, Written Record of Interview of Witness Prom Kem, 16 August 2014, ERN 01066688, A1; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076779, A167-A168; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711-01056713, A5-A10. *See also* **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A116-A118, ERN 01056674, A123-A125, ERN 01056675, A130; **D114/179**, Written Record of Interview of Witness Sguon Chhum, 25 February 2016, ERN 01226858, A27; **D114/96**, Written Record of Interview of Witness Cheng Laung, 25 July 2015, ERN 01142622, A25-A26; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317, A39; **D1.3.8.4**, Minutes of the Meeting of Comrades 164: Report on Vessel Training, 9 September 1976, ERN 00657355.

<sup>1049</sup> **D114/179**, Written Record of Interview of Witness Sguon Chhum, 25 February 2016, ERN 01226861, A40-A45, ERN 01226863, A48-A50, ERN 01226864-01226865, A52, A54-A56; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111728-01111729, A1, ERN 01111731, A9, A12-A16, ERN 01111732, A19-A21, A23; **D54/119**, Written Record of Interview of Witness Prom Kem, 16 August 2014, ERN 01066690-01066692, A7-A12, A14-A16, ERN 01066693, A18. *See also* **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299-00977300, A6-A8, A10.

<sup>1050</sup> **D114/179**, Written Record of Interview of Witness Sguon Chhum, 25 February 2016, ERN 01226854, A5, ERN 01226861-01226862, A40-A44, ERN 01226863, A48-A50, ERN 01226864-01226865, A52.





empty to Smach Daeng Cooperative, the cooperative leaders announced that all the people had drowned, and distributed their clothes.<sup>1051</sup> The only reasonable conclusion is that these people were killed.

- iii. Another witness states that, in a third incident in the second half of 1976, Division 164 soldiers took all '17 April people' from Smach Daeng, Kokir, and Bet Trang villages (two or three truckloads) to be killed at Chamnaot Ream (also called C.I.).<sup>1052</sup> While their ultimate fate is based on hearsay, several elements make the witness's account reliable: (i) he himself observed the diminishing number of '17 April people';<sup>1053</sup> (ii) the source of knowledge was RAK personnel working on a road near Kokir village, near where the trucks would have passed and close to the alleged killing site and who would have been in a good position to learn of the fate of those people; and (iii) the level of detail and consistency of his account across an OCIJ interview and during in-court testimony. Finally, the removal of '17 April people' in large numbers from Bet Trang Dam is corroborated by another witness, who worked there from 1975 until 1977.<sup>1054</sup> While it is reasonable to conclude that a large number of '17 April people' were therefore removed from Ream Area between the middle of 1976 and the end of 1977 and killed, neither witness provides any estimate regarding numbers more precise than "*approximately three truckloads*" and "*two or three trucks*".

351. Together, these three operations total to a minimum number of 416 victims: (i) eight families of two people<sup>1055</sup> (= 16); (ii) six trucks of 60 people each (= 360); and (iii) two truckloads calculated as a minimum of 40, as explained in the Case 004/2 Closing

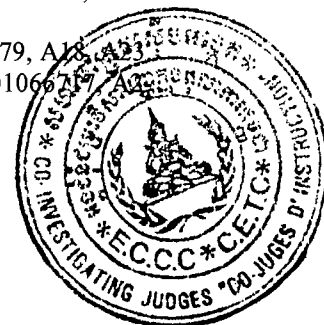
<sup>1051</sup> **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111728-01111729, A1, ERN 01111731, A9-A11, A14-A16, ERN 01111732, A19-A21, A23, ERN 01111733, A28-A32.

<sup>1052</sup> **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977837, A21, ERN 00977838-00977839, A26-A33; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2016, ERN 01412594, lines 6-21. *See also* **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479290, A20, ERN 01479294, A50, ERN 01479295, A52.

<sup>1053</sup> **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977839, A28; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412594, lines 6-21.

<sup>1054</sup> **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977279, A18, A19; *See also* **D54/123**, Written Record of Interview of Witness Lak Saphan, 21 August 2014, ERN 01066719, A3.

<sup>1055</sup> *See Victim numbers*, para. 145.



Order, trucks used at the time could carry at least 20 people, and they would usually be loaded to capacity for such operations.<sup>1056</sup>

352. Witness testimony further supports that at least another 41 people were removed and disappeared, presumably to be killed.<sup>1057</sup> There is no risk of overlap between these 41 victims and the Khmer Krom operation victims, given the specific modalities and distinct victim group of the latter. However, there is a risk of potential overlap *vis-à-vis* (i) one victim with the purge of Division 164;<sup>1058</sup> (ii) 10 victims with Toek Sap;<sup>1059</sup> and (iii) 16 victims with the '17 April people' operation.<sup>1060</sup> Therefore, when accounting for the risk of double-counting by deducting the potential overlapping victims, the minimum number of otherwise unattributed *ad hoc* disappearances is 14 (41 - (1+10+16)).

353. Accordingly, a conservative minimum estimate is that 430 people (416 + 14) disappeared from Ream Area.

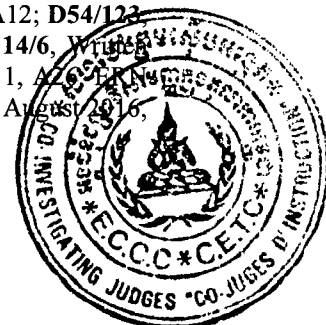
<sup>1056</sup> **Case File No. 004/2-D360, Closing Order (Indictment)**, 16 August 2018, paras 397, 407, 533, 548, 568.

<sup>1057</sup> **D54/115**, Written Record of Interview of Witness Neak Yoeun, 6 August 2014, ERN 01032428, A13, ERN 01032429, A19-A20; **D114/116**, Written Record of Interview of Witness Svay Saman, 4 September 2015, ERN 01172473, A27-A33; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128188, A46, ERN 01128191, A91, ERN 01128192, A102-A104, A111, ERN 01128195, A165, A166; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119979-01119980, A14-A15; **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977279, A18, A23; **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076775, A130, ERN 01076777-01076779, A152-A163; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207330, A112-A113, ERN 01207332, A126, ERN 01207333, A135, ERN 01207350, A281; **D54/122**, Written Record of Interview of Witness Lak Saphan, 20 August 2014, ERN 01066709-01066711, A5-A6, ERN 01066712, A11-A12; **D54/123**, Written Record of Interview of Witness Lak Saphan, 21 August 2014, ERN 01066717, A2; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050310, A23, ERN 01050311, A26, ERN 01050331-01050332, A170-A171; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479291, A21-A26, ERN 01479294, A48-A49; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 August 2015, ERN 01170500, A78-A79, ERN 01170503, A139-A140, A149, ERN 01170507, A217-A218; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711-01056713, A5-A11; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170556, A57-A60, ERN 01170562-01170563, A165-A190, ERN 01170567, A252, A254, ERN 01170568, A256-A257, ERN 01170574, A348-A364.

<sup>1058</sup> **D54/115**, Written Record of Interview of Witness Neak Yoeun, 6 August 2014, ERN 01032428, A13, ERN 01032429, A19-A20; **D114/116**, Written Record of Interview of Witness Svay Saman, 4 September 2015, ERN 01172473, A27-A33.

<sup>1059</sup> **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711-01056713, A5-A11.

<sup>1060</sup> **D54/18**, Written Record of Interview of Witness Nou Saroeun, 15 August 2013, ERN 00977279, A18, A23; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207330, A112-A113, ERN 01207332, A126, ERN 01207333, A135, ERN 01207350, A281; **D54/122**, Written Record of Interview of Witness Lak Saphan, 20 August 2014, ERN 01066709-01066711, A5-A6, ERN 01066712, A11-A12; **D54/123**, Written Record of Interview of Witness Lak Saphan, 21 August 2014, ERN 01066717, A2; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050310, A23, ERN 01050311, A26, ERN 01050331-01050332, A170-A171; **D114/239**, Written Record of Interview of Witness Sao Men, 5 August 2016, ERN 01479291, A21-A26, ERN 01479294, A48-A49.



### 5.7.7 *Visits by Meas Muth*

354. While there is no evidence that **Meas Muth** visited Bet Trang,<sup>1061</sup> he did visit Kang Keng,<sup>1062</sup> in early 1977, where he held a meeting near the Airfield, following which demobilised soldiers were sent to a Kang Keng production unit.<sup>1063</sup> Witnesses more specifically state that **Meas Muth** visited the Rice Field Worksite,<sup>1064</sup> and the Brick Kiln.<sup>1065</sup> While each of these are uncorroborated hearsay accounts in and of themselves, their substantive congruence on the related facts militates in favour of their reliability; furthermore, the strategic importance of the Airfield and the worksites, as well as **Meas Muth's** general presence in the area<sup>1066</sup> make it a reasonable conclusion that these site visits occurred.

## 5.8 Stung Hav Worksites

### 5.8.1 *Location and times of operation*

355. The Stung Hav worksites were located in or near Stung Hav District, Kampong Som Province.<sup>1067</sup> They included several sites where stone was quarried, broken and/or crushed (manually, with machines, and with explosives);<sup>1068</sup> as well as the construction

<sup>1061</sup> See regarding the absence of inspection of Division leadership: **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977301, A18.

<sup>1062</sup> See *contra* **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977301, A18; **D114/273**, Written Record of Interview of Witness Ou Leang, 1 November 2016, ERN 01373245, A75-A76; **D114/285**, Written Record of Interview of Witness Bun Sarat, 29 November 2016, ERN 01375300, A35.

<sup>1063</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001469-01001470, A1; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128188, A46, ERN 01128189, A56, A60, A61, A63. See also **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056669-01056670, A92-A99.

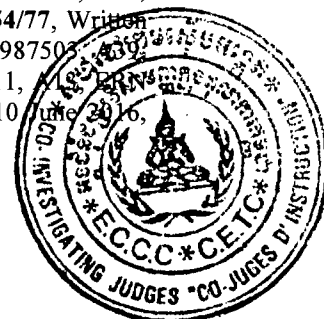
<sup>1064</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076786, A224-A226.

<sup>1065</sup> **D54/17**, Written Record of Interview of Witness Say Born, 14 August 2013, ERN 00977272-00977273, A14-A17.

<sup>1066</sup> See also **D114/68**, Written Record of Interview of Witness Kuy Sambath, 1 May 2015, ERN 01111723, A5; **D114/285**, Written Record of Interview of Witness Bun Sarat, 29 November 2016, ERN 01375300, A35-A42; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207321, A50-A51.

<sup>1067</sup> **D2/23**, Report of the Execution of Rogatory Letter, dated 30 December 2010: Site Identification Report, 30 December 2010, ERN 00644149.

<sup>1068</sup> **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168409, A76, A79, ERN 01168415, A117; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317, A42; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A19-A21; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128177, A12; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197, A17; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987499, A17, ERN 00987502-00987503; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 009771251, A11, ERN 009771252-00977253, A22-A23; **D114/215**, Written Record of Interview of Witness Meas Im, 10 December 2015, ERN 01333478, A58.



of a road (“Road”),<sup>1069</sup> a port (“Port”),<sup>1070</sup> a dam connected to the Port (“Stung Hav Dam”),<sup>1071</sup> and a railway and bridge over the railway (“Rail Worksite”).<sup>1072</sup> The stone was used in the construction of the Road, the Port and the Stung Hav Dam,<sup>1073</sup> however, evidence also indicates that some stone was brought in from other locations, including Kampot Province, to construct the Port.<sup>1074</sup> A prison was also established in Stung Hav.<sup>1075</sup>

<sup>1069</sup> **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A10, A13-A15; **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333478, A58, ERN 01333480, A68, A70.

<sup>1070</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A11-A13; **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013, ERN 00977318, A32; **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A16; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A19; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197, A17; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987499, A17; **D114/95**, Written Record of Interview of Witness Yoem Sroeng, 27 July 2015, ERN 00137207-01137208, A173-A178; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A24-A26.

<sup>1071</sup> **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479382, A48-A49, ERN 01479384, A66; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977873-00977874, A2-A4; **D54/35.1**, DC-Cam Statement of Brak Sokha, 21 June 2011, ERN 00971213; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197, A17; **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333469, Q8, ERN 01333471, A16, ERN 01333482, A80; **D114/215.3**, Attachment 3: Administrative Map of Steung Hav District, Sihanouk Vill 2008-2010, 10 June 2016, ERN 01301427; **D114/215.1**, Attachment 1: DC-Cam’s Promoting Accountability Project: Meas Im, the younger brother of Meas Muth, 14 July 2016, ERN 01301423; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A19.

<sup>1072</sup> **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983542, A1-A2, ERN 00983543, A4; **D234/2.1.138**, Transcript of Hearing on the Substance in Case 002/02 [Nong Net], 10 November 2016, ERN 01386507, lines 1-8; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197-01025198, A18.

<sup>1073</sup> **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479382, A48-A49; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A19-A21; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197, A17; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 009771252-00977253, A22; **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013 ERN 00977318, A32-A33; **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A13-A16.

<sup>1074</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116312, A271-A273; **D54/49**, Written Record of Interview of Witness Em Sun, 29 November 2013, ERN 00974973, A38; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076860, A106-A107; **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333470, A9-A10; **D114/215.1**, Attachment 1: DC-Cam’s Promoting Accountability Project: Meas Im, the younger brother of Meas Muth, 14 July 2016, ERN 01301422.

<sup>1075</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN, 01395466, A19-A22, ERN 01395470, A34-A36, ERN 01395472, A48; **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320072, A27-A28, ERN 01320074, A33-A34.



356. The Port was and still is located on the northern point of the Stung Hav peninsula and the Road built then runs approximately 13 kilometres from Stung Hav village, south and then west, to the oil refinery located outside Kampong Som.<sup>1076</sup>
357. There were at least six quarries and rock-breaking sites in Stung Hav.<sup>1077</sup> Three were located on the western side of the Stung Hav peninsula, west of the Road, between approximately 500 and 1,200 metres south of the Port.<sup>1078</sup> While the precise locations of (i) a site on the northern point of the Stung Hav peninsula, about 50 to 100 metres from the Port;<sup>1079</sup> (ii) a quarry east of the Road;<sup>1080</sup> and (iii) a quarry near the railway that runs east to west, south of the Stung Hav peninsula<sup>1081</sup> could not be verified during

<sup>1076</sup> **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A10; **D2/23**, Report of the Execution of Rogatory Letter, dated 30 December 2010: Site Identification Report, 30 December 2010, ERN 00644156, ERN 00644167, ERN 00644172.

<sup>1077</sup> **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A19; **D114/86.7**, Annex 7: Sketch of Places, 16 June 2015, ERN 01147508; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987503, A40-A43; **D54/77.1**, Administrative Map of Steung Hav District, Sihanouk Ville 2008-2010, 1 April 2014, ERN 00982557; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A21, ERN 00977262, A24; **D54/13.2**, Administrative Map of Steung Hav District – Indication the locations by Pres Mean, 9 July 2013, ERN 00936753; **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013 ERN 00977318, A32-A34; **D54/8.3**, Administrative Map of Steung Hav District – Indication by Dol Song of the location where he was breaking stone, 9 July 2013, ERN 00936754; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317-01168318, A42-A43.

<sup>1078</sup> **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226284, A64, ERN 01226285, A70, A72; **D114/178.1**, Annex 1: Sketch of Places, 24 February 2016, ERN 01237997; **D114/178.2**, Annex 2: Picture, 24 February 2016, ERN 01211381; **D114/178.3**, Annex 3: Google Map's image, 24 February 2016, ERN 01211382; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A20-A21; **D114/86.7**, Annex 7: Sketch of Places, 16 June 2015, ERN 01147508; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987503, A40-A43; **D54/77.1**, Administrative Map of Steung Hav District, Sihanouk Ville 2008-2010, 1 April 2014, ERN 00982557; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977262, A23; **D54/13.2**, Administrative Map of Steung Hav District – Indication the locations by Pres Mean, 9 July 2013, ERN 00936753; **D114/60**, Site Identification Report, 26 March 2015, ERN 01082179-01082182, ERN 01082197; **D2/23**, Report of the Execution of Rogatory Letter, dated 30 December 2010: Site Identification Report, 30 December 2010, ERN 00644157-00644158.

<sup>1079</sup> **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013, ERN 00977318, A32-A34; **D54/8.3**, Administrative Map of Steung Hav District – Indication by Dol Song of the location where he was breaking stone, 9 July 2013, ERN 00936754.

<sup>1080</sup> **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A20-A21; **D114/86.7**, Annex 7: Sketch of Places, 16 June 2015, ERN 01147508; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502-00987503, A39, A42; **D54/77.1**, Administrative Map of Steung Hav District, Sihanouk Ville 2008-2010, 1 April 2014, ERN 00982557.

<sup>1081</sup> **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A20-A21; **D114/86.7**, Annex 7: Sketch of Places, 16 June 2015, ERN 01147508; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A19, A22, ERN 00977262, A24, ERN 00936753; **D54/13.2**, Administrative Map of Steung Hav District – Indication the locations by Pres Mean, 9 July 2013, ERN 00936753.



the investigation, their approximate locations are marked on sketches and drawings on maps by witnesses.<sup>1082</sup>

358. The Stung Hav Dam worksite was situated on the coast approximately two kilometres east of the Port, in Tumnob Rolok Commune,<sup>1083</sup> and the Rail Worksite was located 40 to 50 metres north of a railway crossing approximately five kilometres west of the intersection between the railway and the Road, south of Stung Hav.<sup>1084</sup> Again, while the precise location of these sites could not be verified during the investigation, their approximate locations are marked on sketches and drawings on maps by witnesses.<sup>1085</sup>

359. The Stung Hav worksites were in operation from between mid-1975 and the end of 1976<sup>1086</sup> until the arrival of the Vietnamese at the beginning of 1979.<sup>1087</sup> The construction of the Port, the Road, and the Stung Hav Dam went on for different lengths of time within this period.<sup>1088</sup> The Port had not yet been completed when the

<sup>1082</sup> **D54/8.3**, Administrative Map of Steung Hav District – Indication by Dol Song of the location where he was breaking stone, 9 July 2013, ERN 00936754; **D114/86.7**, Annex 7: Sketch of Places, 16 June 2015, ERN 01147508; **D54/77.1**, Administrative Map of Steung Hav District, Sihanouk Ville 2008-2010, 1 April 2014, ERN 00982557; **D54/13.2**, Administrative Map of Steung Hav District – Indication the locations by Pres Mean, 9 July 2013, ERN 00936753.

<sup>1083</sup> **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333482, A80; **D114/215.3**, Attachment 3: Administrative Map of Steung Hav District, Sihanouk Vill 2008-2010, 10 June 2016, ERN 01301427; *see also* **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197, A17.

<sup>1084</sup> **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983542, A1-A2, 00983543, A4, ERN 00983544, A6; **D54/68.2**, Administrative Map of Steung Hav District, Sihanouk Ville 2008-2010, 10 March 2014, ERN 00977483.

<sup>1085</sup> **D114/215.3**, Attachment 3: Administrative Map of Steung Hav District, Sihanouk Vill 2008-2010, 10 June 2016, ERN 01301427; **D54/68.2**, Administrative Map of Steung Hav District, Sihanouk Ville 2008-2010, 10 March 2014, ERN 00977483.

<sup>1086</sup> **D54/87**, Written Record of Interview of Witness Prum Sarat, 24 April 2014, ERN 01055477, A100-A102; **D54/49**, Written Record of Interview of Witness Em Sun, 29 November 2013, ERN 00974972-00974973, A32, A36-A37; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A12; **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A10; **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333479, A62.

<sup>1087</sup> **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168314, A23; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170507, A210, A212; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180853-01180854, A16; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235043, A25; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502, A35-A36; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977876, A17; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A12; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128176-01128177, A15; **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333469, Q8, ERN 01333471, A16; **D114/215.1**, Attachment 1: DC-Cam's Promoting Accountability Project: Meas Im, the younger brother of Meas Muth, 14 July 2016, ERN 01301423, p.2; *see also* **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479382, A46.

<sup>1088</sup> **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479382, A44; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A48.



Vietnamese entered Cambodia.<sup>1089</sup> From some point in 1977 or 1978 until 6 January 1979, China seconded advisors and workers to DK, who provided training as well as technical and manual assistance in Stung Hav.<sup>1090</sup>

### 5.8.2 *Structure and personnel*

360. The Stung Hav area, worksites, and production units were controlled by units and personnel under the command of Division 164.<sup>1091</sup> At least three battalions of Regiment 61 (which witnesses state was stationed in Stung Hav) operated in the area from at least early 1977 until 1979.<sup>1092</sup>

**D54/49**, Written Record of Interview of Witness Em Sun, 29 November 2013, ERN 00974973, A37; **D54/9**, Written Record of Interview of Witness Min Phon, 21 June 2013, ERN 00977325-00977326, A6-A7; **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A10; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076860-01076861, A106-A113.

<sup>1089</sup> **D54/49**, Written Record of Interview of Witness Em Sun, 29 November 2013, ERN 009749732, A32; **D54/33.1**, DC-Cam Statement of Ing Chhon, 20 June 2011, ERN 01073814; **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977852-00977853, A1-A7; **D54/35.1**, DC-Cam Statement of Brak Sokha, 21 June 2011, ERN 00971213-00971214; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977873-00977874, A1-A4; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A12; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076861, A111; **D54/9**, Written Record of Interview of Witness Min Phon, 21 June 2013, ERN 00977326-00977327, A7-A17.

<sup>1090</sup> **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479384, A65-A67; **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320071, A25; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19, ERN 01226277, A21, ERN 01226284, A67; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987501, A34, ERN 00987502-00987503, A39; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A22; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977252-00977253, A22; **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148797, A39; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128177, A13; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168318, A44; **D54/49**, Written Record of Interview of Witness Em Sun, 29 November 2013, ERN 00974972-00974973, A32, A36; **D114/186**, Written Record of Interview of Witness Shat Chak, 14 March 2016, ERN 01251783, A149; **D1.3.13.8**, OCP Interview of Pen Sarin, 13 August 2008, ERN 00217560; **D1.3.13.13**, OCP Interview of Touch Souley, 16 August 2008, ERN 00217574.

<sup>1091</sup> **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128177, A13-A14, A17; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479379, A17, ERN 01479382, A42-A43, ERN 01479386, A77-A78; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226273, A4, ERN 01226278, A30, ERN 01226279, A34; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987501, A33, ERN 00987504-00987505, A52-A57; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509-01074510, A10; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977303, A32; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168415-01168416, A121, ERN 01168417-01168418, A133-A137; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980-01119981, A22-A26; **D1.3.8.4**, Minutes of the meeting of comrades 164: Report on vessel training, 9 September 1976, ERN 00657354.

<sup>1092</sup> **D54/9**, Written Record of Interview of Witness Min Phon, 21 June 2013, ERN 00977325-00977326, A5-A6; **D54/9.1**, Administrative Map of Steung Hav District – Indication the locations by Min Phon, 9 July 2013, ERN 00936755; **D54/83**, Written Record of Interview of Witness Hing Uch, 24 April 2014, ERN 01061117, A37-A38, ERN 01061117, A42; **D54/83.3**, Administrative Map of Steung Hav District, Sihanouk Village, 28 April 2010, 28 April 2014 (filing date), ERN 00984400; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226278-01226280, A30, A32-A34, A36-A39; **D114/178.4**,



361. The evidence shows that Division 164, under **Meas Muth**'s command, controlled the Stung Hav worksites and that the chain of command and reporting protocol reflected the traditional linear-hierarchical structure of the CPK.<sup>1093</sup>
362. For some time during the operation of the worksites, Norng Chhan and Dim,<sup>1094</sup> **Meas Muth**'s deputies until their removal by the beginning of 1977,<sup>1095</sup> had at least a limited degree of responsibility in Stung Hav.<sup>1096</sup>
363. There was a clear vertical reporting and command hierarchy. **Meas Muth** gave orders directly, for example, to Iek Mienh, the commander of a construction unit in Stung Hav, and Meas Im, who had an unverified position in a construction unit at Stung Hav,<sup>1097</sup> reported upwards through Iek Mienh.<sup>1098</sup> This reporting and command hierarchy is confirmed by other witnesses,<sup>1099</sup> including Long Phansy, who was a battalion commander in Stung Hav from 1976 until his arrest in January or February of 1977 or 1978.<sup>1100</sup> Further support is found in a telegram from Dim to **Meas Muth** dated 24 September 1976, regarding the transfer of two soldiers who deserted a unit in "Sang

Geographical and Road Network Sihanouk Vill Province, 4 March 2016 (filing date), ERN 01211383; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977262, A27, ERN 00977265, Investigator Comment; **D54/13.2**, Administrative Map of Steung Hav District – Indication the locations by Pres Mean, 9 July 2013 (filing date), ERN 00936753; **D114/95**, Written Record of Interview of Witness Yoem Sroeng, 27 July 2015, ERN 00137208, A178, A180-A182, ERN 00137209, A185; *see also* **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320069, A15, ERN 01320071-01320070, A17-A25.

<sup>1093</sup> *See RAK structure and Meas Muth's roles and responsibilities*, paras 153, 155.

<sup>1094</sup> Alternative spellings following transliteration from the Khmer originals are Doem and Deum.

<sup>1095</sup> *See RAK structure and Meas Muth's roles and responsibilities*, para. 157.

<sup>1096</sup> **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168401-01168402, A22-A24, ERN 01168410, A87-A88; **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148798-01148799, A50, A53, A55-A56; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180852-01180853, A12; **D54/104**, Written Record of Interview of Witness Ek Ny, 3 June 2014, ERN 01008084, A7; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074511, A14; **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013, ERN 00977314, A12-A13; **D114/214**, Written Record of Interview of Witness Meas Im, 9 June 2016, ERN 01331620, A26; **D4.1.699**, Eleventh Telegram to Brother Mut about Enemy situation in along border, 24 September 1976, ERN 00143240; **D1.3.13.8**, OCP Interview of Pen Sarin, 13 August 2008, ERN 00217562.

<sup>1097</sup> **D114/214**, Written Record of Interview of Witness Meas Im, 9 June 2016, ERN 01331620, A25-A26; **D114/215.1**, Attachment 1: DC-Cam's Promoting Accountability Project: Meas Im, the younger brother of Meas Mut, 4 July 2016 (filing date), ERN 01301422.

<sup>1098</sup> **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333479, A66, ERN 01333480, A69-A70, ERN 01333481, A75-A76; **D114/214**, Written Record of Interview of Witness Meas Im, 9 June 2016, ERN 01331620, A24-A25, ERN 01331621, A30, A32-A33.

<sup>1099</sup> **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226274, A9-A10; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168417, 00977314, A9.

<sup>1100</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320069, 01320071, A21-A25; ERN 01320072, A27-A28.





*Hav*” – the telegram also relates to Riem, Babos Py and Kang Keng, therefore it is reasonable to conclude that *Sang Hav* is a linguistically corrupted reference to *Stung Hav*, because there is no location properly so called.<sup>1101</sup>

### 5.8.3 *Workforce*

364. The workforce at the Stung Hav worksites was made up mainly of demobilised soldiers (and some active) from the East Zone,<sup>1102</sup> Sector 37,<sup>1103</sup> and Division 164,<sup>1104</sup> as well as some “*new people*”,<sup>1105</sup> civilians,<sup>1106</sup> and a number of former detainees of the Vietnamese (i.e. of Battalion 310).<sup>1107</sup>

<sup>1101</sup> **D4.1.699**, Eleventh Telegram to Brother Mut about Enemy situation in along border, 24 September 1976, ERN 00143240.

<sup>1102</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395462-01395463, A12-A13, ERN 01395464, unnumbered A; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509, A10, ERN 01074516, A41; **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013 ERN 00977317, A27-A28, ERN 00977318, A37; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977254, A25; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977258, A1, ERN 00977259, A7, ERN 00977260, A15; **D54/67.3**, DC-Cam Statement of Nong Net, 29 August 2005, ERN 00983493, ERN 00983512-00983513, *as confirmed in D54/67*, Written Record of Interview of Witness Nong Net, 4 March 2014, ERN 00983533-00983535, A5-A13, **D234/2.1.138**, Transcript of Hearing on the Substance in Case 002/02 [Nong Net], 10 November 2016, ERN 01386507, lines 4-15; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197-01025198, A18.

<sup>1103</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987500, A23-A25; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A17-A19; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479378, A10, A12, ERN 01479379, A17, ERN 01479382, A42-A45; **D114/112**, Written Record of Interview of Witness Oem Sokhan, 27 August 2015, ERN 01170519, A1-A2, ERN 01170521-01170522, A15; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977249, A4, ERN 00977250, A6, ERN 00977251, A11-A13; **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148796, A30, ERN 01148813, A161; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168408-01168409, A69-A74, A76, ERN 01168410, A86, ERN 01168411-01168412, A94-A97, ERN 01168413, A104, ERN 01168416, A123-A124.

<sup>1104</sup> **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509-01074510, A10; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128176-01128177, A8, A13-A14; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180849-01180850, A2, ERN 01180853-01180854, A16; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119978, A7, ERN 01119980, A15-A16, A19; **D54/35.1**, DC-Cam Statement of Brak Sokha, 21 June 2011, ERN 00971214, *as confirmed in D54/35*, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977873-00977874, A1-A4, ERN 00977875-00977876, A13-A17; *see also D59/2/2.16a*, DC-Cam Statement of Sim Ny, 22 May 2011, ERN 01332594.

<sup>1105</sup> **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A15, ERN 00607258, A17; **D114/25**, Written Record of Interview of Civil Party Applicant Ou Dav, 3 November 2014, ERN 01055688, A20.

<sup>1106</sup> **D54/33.1**, DC-Cam Statement of Ing Chhon, 20 June 2011, ERN 01073815, *as confirmed in D54/33*, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977852-00977853, A1-A7.

<sup>1107</sup> **D114/79**, Written Record of Interview of Witness Kang Sum, 4 June 2015, ERN 01116304-01116306, A150-A187.



365. People considered to be “*bad elements*” or untrustworthy,<sup>1108</sup> or requiring to be “*tempered*”, re-educated, screened, or punished<sup>1109</sup> were sent to Stung Hav, including after having had their biography taken.<sup>1110</sup> Stung Hav was a destination for ‘minor offenders’:<sup>1111</sup> sector level to company chairmen were removed and sent elsewhere, whereas low-ranking soldiers remained in Stung Hav.<sup>1112</sup> “*Bad elements*” from within Regiment 61 were organised into Companies 17, 18 and 19,<sup>1113</sup> whose presence in Stung Hav is corroborated,<sup>1114</sup> and minutes of a meeting of Division 164 support the conclusion that people already in Stung Hav who were considered to be “*bad elements*” were separated and that **Meas Muth** was at least aware of this.<sup>1115</sup>
366. People were transferred to Stung Hav and between worksites against their will<sup>1116</sup> with subordinate units of Division 164 ordering the transfer of at least a portion of the workforce.<sup>1117</sup> One former East Zone soldier stated that Dim gathered up “*a lot*” of

<sup>1108</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A13; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A21, ERN 00977262-00977263, A24-A30; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987500, A23-A25; **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320069, A15; **D114/186**, Written Record of Interview of Witness Shat Chak, 14 March 2016, ERN 01251783, A148-A155.

<sup>1109</sup> **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A22; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A17-A20, ERN 01226277 A25; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170507, A211, A224; **D114/155**, Written Record of Interview of Witness Sok Ren, 13 January 2016, ERN 01207301, A61.

<sup>1110</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A12-A13; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977259, A6; **D1.3.8.4**, Minutes of the meeting of comrades 164: Report on vessel training, 9 September 1976, ERN 00657354-00657356.

<sup>1111</sup> **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977876, A17; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A22; **D114/186**, Written Record of Interview of Witness Shat Chak, 14 March 2016, ERN 01251783, A148-A155; *see also* **D54/100**, Written Record of Interview of Witness Lay Boonhak, 29 May 2014, ERN 01076831, A135.

<sup>1112</sup> **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226277, A22, A24.

<sup>1113</sup> **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A21, ERN 00977262-00977263, A24, A29-A30; **D54/13.2**, Administrative Map of Steung Hav District – Indication the locations by Pres Mean, 9 July 2013, ERN 00936753.

<sup>1114</sup> **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A21; **D114/86.7**, Annex 7: Sketch of Places, 16 June 2015, ERN 01147508; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226278, A31.

<sup>1115</sup> **D1.3.8.4**, Minutes of the meeting of comrades 164: Report on vessel training, 9 September 1976, ERN 00657354.

<sup>1116</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977252, A18; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168409, A76, ERN 01168410, A82-A83.

<sup>1117</sup> **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013 ERN 00977317, A27; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977318, A32; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977252, A14-A17.



soldiers from the East Zone to come to Kampong Som;<sup>1118</sup> however, the testimony is not specific enough on this point to conclude that those soldiers were transferred to Stung Hav.

367. Evidence with respect to the number of workers and the time spent by them in Stung Hav varies considerably. A foreman on the Road construction, that lasted approximately six months, testified that although there were not a regular number of workers, around 30 unskilled workers worked on the project in total, with an additional 40 to 50 irregular workers.<sup>1119</sup> A worker who was stationed for less than a year at a quarry 50 to 100 metres from the Port arrived with around 20 people and while stating that additional platoons arrived, the witness specifies neither the number nor the intervals of those arrivals.<sup>1120</sup> Another worker at a quarry on the west of the Stung Hav peninsula worked for around a year with about 100 others<sup>1121</sup> while a witness who worked in Stung Hav from mid-1976 to 1979 states that in mid-1976 there were about 20 workers with him at a quarry east of the Port and states that Companies 17, 18 and 19 (which as set out above were situated in Stung Hav) consisted of approximately 100 workers each.<sup>1122</sup> The former commander of a construction unit from some point in 1976 until his arrest – for which evidence varies between January or February of 1977 or 1978 – allegedly had 100 to 200 people in his unit.<sup>1123</sup> These witnesses do not, however, specify the total number of workers at those sites during those periods.
368. Further testimony ranges from 14 to 200 workers at individual worksites,<sup>1124</sup> to 800 at a group of sites consisting of a rock-crushing site, a rock-drilling site and a road

<sup>1118</sup> **D114/220**, Written Record of Interview of Witness San Chuon, 16 June 2016, ERN 01395485, A23.

<sup>1119</sup> **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A10-A12.

<sup>1120</sup> **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013 ERN 00977317, A29-A31, 00977318, A33, A37; **D54/8.3**, Administrative Map of Steung Hav District – Indication by Dol Song of the location where he was breaking stone, 9 July 2013, ERN 00936754.

<sup>1121</sup> **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226284, A66-A67, ERN 01226285, A70-A72; **D114/178.1**, Annex 1: Sketch of Places, 24 February 2016, ERN 01237997; **D114/178.2**, Annex 2: Picture, 24 February 2016, ERN 01211381.

<sup>1122</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A12; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A19-A20, ERN 00977262, A24-A25.

<sup>1123</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320070, A18.

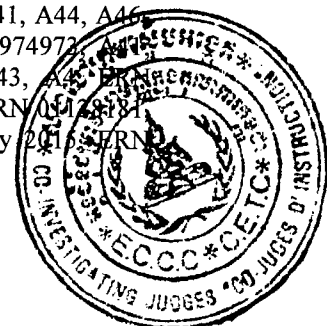
<sup>1124</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987503, A41, A44, A46,

**D54/49**, Written Record of Interview of Witness Em Sun, 29 November 2013, ERN 00974972,

**D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983543,

00983548, A31; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01170507,

A39-A40; *see also* **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170507, A210, A224-A228.



construction tractor group.<sup>1125</sup> Evidence regarding the number of individuals sent to Stung Hav also varies, from 20<sup>1126</sup> to 250.<sup>1127</sup> While witnesses variously state that from 1977 all demobilised forces from the Navy were sent to Stung Hav,<sup>1128</sup> that all soldiers from Sector 37 were sent to Stung Hav,<sup>1129</sup> and that three battalions were sent “to *temper*” near Stung Hav,<sup>1130</sup> these accounts are not precise enough to allow specific conclusions to be drawn.

369. Additional testimony regarding the length of time spent in Stung Hav ranges from around a fortnight,<sup>1131</sup> to several months,<sup>1132</sup> to over two years,<sup>1133</sup> while some witnesses speak to transfers occurring during 1977<sup>1134</sup> and through to mid or late 1978.<sup>1135</sup>
370. It is therefore not possible to conclude exactly how many people worked in Stung Hav. A conservative estimate based on the widely varying evidence set out above would nonetheless allow the conclusion that the overall number must have been around 100 at any given time, but very likely many more during the entire period when the worksites were in operation.

<sup>1125</sup> **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333477, A54, ERN 01333478, A58; **D114/214**, Written Record of Interview of Witness Meas Im, 9 June 2016, ERN 01331621, A28-A29.

<sup>1126</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A14.

<sup>1127</sup> **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226280, A40-A41.

<sup>1128</sup> **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A16, A19.

<sup>1129</sup> **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A17-A18.

<sup>1130</sup> **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20.

<sup>1131</sup> **D54/28**, Written Record of Interview of Witness Liet Lan, 23 October 2013, ERN 00976566-00976567, A14.

<sup>1132</sup> **D54/99**, Written Record of Interview of Witness Lay Boonhak, 28 May 2014, ERN 01079285, A33; **D54/97**, Written Record of Interview of Witness Khoem Yat, 23 May 2014, ERN 01074509, A10; *see also* **D1.3.13.11**, OCP Interview of Sieng, 12 August 2008, ERN 00217566.

<sup>1133</sup> **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168409, A76.

<sup>1134</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987501, A34; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128176-01128177, A8; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395464, unnumbered A.

<sup>1135</sup> **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983542, A2, ERN 00983545, A13; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119980, A16-A18; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235047, A25; *see also* **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168318, A42; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2015, ERN 00977876, A17.



#### 5.8.4 Living and working conditions

371. Two witnesses testify to living about 500 metres or one kilometre from their worksites,<sup>1136</sup> in thatched accommodation.<sup>1137</sup> According to one, workers slept in beds that each held two or three people, with around 100 people in total in the hall and from at least late 1977 until 1978 the workers walked to work, after which trucks transported them.<sup>1138</sup> There is, however, insufficient evidence regarding housing conditions and locations upon which factual conclusions can be based with respect to the Stung Hav area generally.
372. Witness testimony consistently reflects the view that food at the Stung Hav worksites was at least the same as at Kang Keng, or better.<sup>1139</sup> Workers received a minimum of two, and in some cases three, small meals per day, typically sugar cane and cassava for breakfast and small plates of rice at lunch and/or dinner.<sup>1140</sup>
373. Food distribution appears however to have varied between worksites. Workers at the Port apparently received three meals a day, including fish.<sup>1141</sup> By contrast, the situation is less clear for the people who worked at the quarries and other worksites, with some evidence indicating that the amount of food might also have been less for demobilised cadres and people affiliated with disgraced former cadres, and some evidence

<sup>1136</sup> **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168318, A43; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A13; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A19, ERN 00977263, A32; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479384, A60.

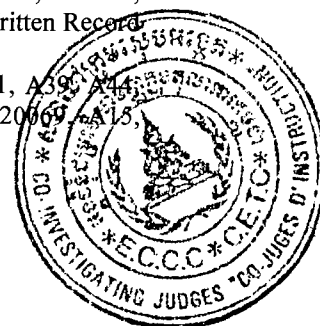
<sup>1137</sup> **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168318, A43; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A13; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A19, ERN 00977263, A32.

<sup>1138</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A13; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A19, 00977263, A32.

<sup>1139</sup> **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197-01025198, A17-A18; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119981, A28; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317-01168318, A42; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A26; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479380, A25, ERN 01479384, A62.

<sup>1140</sup> **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977262, A26; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317-01168318, A42; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170508, A233-A238; **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983546, A21; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502, A36; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128181, A39, A44.

<sup>1141</sup> **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128181, A39, A44; **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320079, A58.



indicating a more egalitarian treatment.<sup>1142</sup> There is insufficient evidence to conclude that **Meas Muth** was aware of the food situation in Stung Hav.<sup>1143</sup>

374. Although one witness, who was only in Stung Hav from late 1978, states that sick workers were not allowed to rest,<sup>1144</sup> the weight of evidence supports the conclusion that, at least at some sites, including quarry sites to the west and east of the Stung Hav peninsula, those who got sick were treated on-site by people referred to by witnesses as “*medics*” or sent to medical centres and allowed to rest.<sup>1145</sup> There were, however, not enough medical supplies at one quarry where rocks were broken for the Stung Hav Dam.<sup>1146</sup> A former medic attests to receiving one month of basic medical training and to the existence of a hospital in Stung Hav.<sup>1147</sup>

<sup>1142</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987499, A17, ERN 00987501, A31; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119981, A28; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19, ERN 01226278, A26; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197-01025198, A17-A18; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479382, A48-A49, ERN 01479384, A62; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170508, A240-A241; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168412, A99, ERN 01168413, A104; **D234/2.1.138**, Transcript of Hearing on the Substance in Case 002/02 [Nong Net], 10 November 2016, ERN 01386507, lines 18-25, ERN 01386508, lines 1-3; **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977873-00977874, A1-A4; **D54/35.1**, DC-Cam Statement of Brak Sokha, 21 June 2011, ERN 00971214; **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983546, A2; **D54/67**, Written Record of Interview of Witness Nong Net, 4 March 2014, ERN 00983534-00983535, A12-A13; **D54/67.3**, DC-Cam Statement of Nong Net, 29 August 2005, ERN 00983513, p.23.

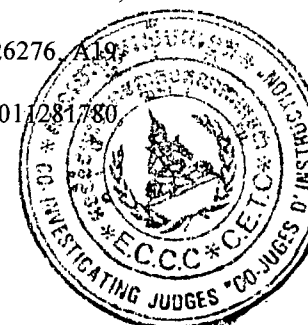
<sup>1143</sup> According to the testimony of one witness (**D114/48**, Written Record of Interview of Witness Sok Ngon, 18 February 2015, ERN 01076710, A31-A33), **Meas Muth** was aware of the food situation of one unit in Stung Hav, because he ordered a navy unit anchored at Stung Hav to return to Kampong Som due to the poor quality of the food that the unit ate at Stung Hav. This testimony, however, lacks sufficient detail and precision to be considered reliable regarding **Meas Muth**'s knowledge both on that specific point and with regard to the food situation in Stung Hav more generally.

<sup>1144</sup> **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983544, A13, ERN 00983546, A21; **D54/67**, Written Record of Interview of Witness Nong Net, 4 March 2014, ERN 00983534-00983535, A12-A13; **D54/67.3**, DC-Cam Statement of Nong Net, 29 August 2005, ERN 00983513, p.23.

<sup>1145</sup> **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A19, ERN 00977263, A34; **D54/13.2**, Administrative Map of Steung Hav District – Indication the locations by Pres Mean, 9 July 2013, ERN 00936753; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317, A42, ERN 01168318, A45; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226278, A26, ERN 01226284, A64, ERN 01226285, A70, A72; **D114/178.1**, Annex 1: Sketch of Places, 24 February 2016, ERN 01237997; **D114/178.2**, Annex 2: Picture, 24 February 2016, ERN 01211381; **D114/178.3**, Annex 3: Google Map's image, 24 February 2016, ERN 01211382; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170508, A246; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128176-01128177, A8.

<sup>1146</sup> **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19, ERN 01226278, A26.

<sup>1147</sup> **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128179-01128178, A28-A30.



375. While the presence of guards at worksites and living accommodation varied,<sup>1148</sup> workers were neither permitted to go anywhere off-site (including to visit family), to move freely around their own worksites or living areas, nor to contact anyone elsewhere; some were afraid of the possible consequences, i.e. being arrested and taken away or killed, if they did.<sup>1149</sup>
376. At one rock-breaking site, workers were told to “*keep track of*” each other and report transgressions to their unit commanders.<sup>1150</sup> In addition, “*life view*” meetings were held to find out who had “*political tendencies*”,<sup>1151</sup> biographies were collected,<sup>1152</sup> and at least one battalion commander was put under surveillance.<sup>1153</sup>
377. Workers primarily cleared forests, broke, and/or transported rocks to trucks, construction sites and other locations; some worked on/at the Road, Port, Stung Hav Dam, and/or Rail Worksite.<sup>1154</sup> Further tasks included farming and other incidental construction work, such as digging wells.<sup>1155</sup>

<sup>1148</sup> **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148811, A143-A144; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168409, A79-A80, ERN 01168410, A85; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170507, A225-A229; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168318, A43-A44; **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983548, A32-A33; *see also* **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977263-00977624, A34.

<sup>1149</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977252, A21; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977262, A26, ERN 00977263, A34; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168318-01168319, A43, A46-A48, ERN 01168319, A52; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168409, A79, ERN 01168410, A82; **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983547-00983548, A23, A26-A28, A33; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502, A36-A37; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977303, A35.

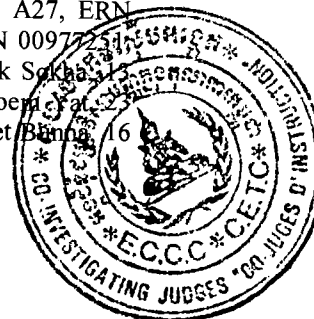
<sup>1150</sup> **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A19, ERN 00977262, A23, A27.

<sup>1151</sup> **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148797, A39; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168409, A76, ERN 01168412, A99.

<sup>1152</sup> **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168315, A29; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226281, A47-A48; *see also* **D1.3.8.4**, Minutes of the meeting of comrades 164: Report on vessel training, 9 September 1976, ERN 00657354-00657356; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977303, A31.

<sup>1153</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320070, A16-A17, ERN 01320073, A30.

<sup>1154</sup> **D54/8**, Written Record of Interview of Witness Dol Song, 19 June 2013 ERN 00977317, A27, ERN 00977318, A32; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977252-00977253, A22-A23; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A24-A25; **D54/97**, Written Record of Interview of Witness Khoem, 16 May 2014, ERN 01074509-01074510, A10; **D114/86**, Written Record of Interview of Witness Chet Banna,



378. Workers could not refuse to work, they received no pay, and were given only food and clothes (two sets per year).<sup>1156</sup> One regarded himself and others as being treated like slaves with no right to express opinions or make any demands,<sup>1157</sup> while another states that workers were treated like animals.<sup>1158</sup> Others however, were given up to three days off a month to wash clothes and do “*other work*”,<sup>1159</sup> while some were only given days off for meetings.<sup>1160</sup>
379. Working hours were generally from approximately 7 a.m. to 11 a.m. and then from 1 p.m. to 5 p.m.,<sup>1161</sup> with some witnesses stating that they started work at 4 a.m., 5 a.m.,

June 2015, ERN 01119980, A19; **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148797, A39, ERN 01148805, A103; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168415, A116-A117; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317-01168318, A42; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170507, A225; **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320069-01320070, A15-A17, ERN 01320071, A23; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479382, A48-A49; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197-01025198, A17-A18; **D114/65**, Written Record of Interview of Witness Chet Bunna, 28 April 2015, ERN 01180853-01180854, A16; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987499, A17, ERN 00987502-00987503, A36, A39; **D54/87**, Written Record of Interview of Witness Prum Sarat, 24 April 2014, ERN 01055477, A100, A102; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128181, A39-A40; **D54/99**, Written Record of Interview of Witness Lay Boonhak, 28 May 2014, ERN 01079284-01079285, A30-A33; **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983542, A1-A2, ERN 00983543, A4; **D234/2.1.138**, Transcript of Hearing on the Substance in Case 002/02 [Nong Net], 10 November 2016, ERN 01386507, lines 4-8; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977873-00977874, A1-A4, ERN 00977876, A17; **D54/35.1**, DC-Cam Statement of Brak Sokha, 21 June 2011, ERN 00971213; **D114/186**, Written Record of Interview of Witness Shat Chak, 14 March 2016, ERN 01251783, A148, A152, A157.

<sup>1155</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502, A36; **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395464-01395466, unnumbered A; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168318, A43; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977873-00977874, A1-A4, ERN 00977876, A17; **D54/35.1**, DC-Cam Statement of Brak Sokha, 21 June 2011, ERN 00971213; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A24.

<sup>1156</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977252, A20; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317, A42, ERN 01168318-01168319, A44, A46-A48; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19-A20; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119981, A28; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A24, ERN 00977303, A30; *see also* **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983546, A21, ERN 00983547, A24.

<sup>1157</sup> **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A24, A28-A29.

<sup>1158</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502, A36, A38.

<sup>1159</sup> **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119981, A28.

<sup>1160</sup> **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317, A42, ERN 01168318, A46.

<sup>1161</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977252, A19.

**D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317-01168318, A42; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170507, A235.





or 6 a.m.,<sup>1162</sup> and finished at 7 p.m. or 9 p.m.<sup>1163</sup> There is evidence that work was also done in night-shifts, and when it rained.<sup>1164</sup>

380. Manual labour was required of many workers, using picks, crowbars, or clubs to break rocks and manually carrying them from the quarries to onward transport, the Port, or other destinations;<sup>1165</sup> one witness describes experiencing “*hardship and suffering*”.<sup>1166</sup> Explosives and machines were used at some sites.<sup>1167</sup> The work was arduous and dangerous, with injuries and deaths caused, for example, by falling rocks; there is no evidence to indicate that supervisors paid any heed to ensuring even basic safety at work.<sup>1168</sup>
381. One witness states that it is incorrect that working conditions at rock-breaking worksites were hard as the work was done by machines and engines. However he was a

A235; **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983546, A21; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128181, A44; *see also* **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479384, A61.

<sup>1162</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502, A36; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119981, A28; **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20.

<sup>1163</sup> **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977856, A20; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502, A36.

<sup>1164</sup> **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A10; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128181, A39.

<sup>1165</sup> **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977261, A19; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A27; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317-01168318, A42; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168415, A117; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226283, A62, ERN 01226285, A73; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502-00987503, A35-A36, A39; **D54/33.1**, DC-Cam Statement of Ing Chhon, 20 June 2011, ERN 01073815-01073816; **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977852-00977853, A1-A7.

<sup>1166</sup> **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226285, A73.

<sup>1167</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A12, ERN 00977252-00977253, A22; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502-00987503, A35-A36, A39; **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317-01168318, A42; **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168415, A116-A118; **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A16; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128177, A12; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076860, A106-A107; **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983543, A4-A5; **D54/9**, Written Record of Interview of Witness Min Phon, 21 June 2013, ERN 00977326, A7-A8; **D114/95**, Written Record of Interview of Witness Yoem Sroeng, 27 July 2015, ERN 00137209, A187.

<sup>1168</sup> **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A27; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119981, A28; *see also* **D2/7**, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607257, A10; **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983546, A21; **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333469, Q8, ERN 01333471, A35; **D114/215.1**, Attachment 1: DC-Cam’s Promoting Accountability Project: Meas Im, the youngest brother of Meas Muth, 4 July 2016, ERN 01301423.



former member of Battalion 450,<sup>1169</sup> and he only visited one rock-breaking site once or twice; and did not see the working conditions first-hand but observed them from a distance.<sup>1170</sup> As such there are reasons to doubt both his credibility and reliability on this point despite the fact that the witness was given a letter of assurance that he would not face prosecution.<sup>1171</sup>

382. People who did not perform to the necessary standard, disobeyed orders or protested would be publicly criticised or required to self-criticise at meetings,<sup>1172</sup> and risked being sent to Toek Sap,<sup>1173</sup> where people were routinely executed; there is evidence of only a few prisoners ever released from there between 1976 and 1979.<sup>1174</sup> Performance targets, which if met were then increased according to one witness,<sup>1175</sup> were imposed at some worksites, including a rock breaking site associated with the Stung Hav Dam, and those not meeting them faced being arrested, beaten, or even killed.<sup>1176</sup> In simple terms, the impression was that one had to break as much rock as possible.<sup>1177</sup>

383. Apart from the testimony of one witness,<sup>1178</sup> there is no evidence that a distinction was made between workers based on their being “*bad elements*” as far as the individual workload assignment was concerned,<sup>1179</sup> which stands to reason because most if not all would have already been identified as such before being sent to Stung Hav.

<sup>1169</sup> **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076843, A11.

<sup>1170</sup> **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076860-01076861, A106-A115.

<sup>1171</sup> **D54/98/1**, ICIJ’s Letter of Assurance to Heang Ret, 26 May 2014, ERN 00990406.

<sup>1172</sup> **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983546, A21, ERN 00983547, A23; **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977251, A13, ERN 00977253, A23; **D54/35**, Written Record of Interview of Witness Brak Sokha, 12 November 2013, ERN 00977873-00977874, A1-A4; **D54/35.1**, DC-Cam Statement of Brak Sokha, 21 June 2011, ERN 00971214.

<sup>1173</sup> **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A26, ERN 00977303, A30-A31.

<sup>1174</sup> See *Toek Sap Security Centre*, para. 420.

<sup>1175</sup> **D54/33**, Written Record of Interview of Witness Ing Chhon, 9 November 2013, ERN 00977852-00977853, A1-A7; **D54/33.1**, DC-Cam Statement of Ing Chhon, 20 June 2011, ERN 01073815-01073816.

<sup>1176</sup> **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977302, A24-A27, ERN 00977303, A31; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19, ERN 01226277, A21, ERN 01226278, A27.

<sup>1177</sup> **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317, A42, ERN 01168318, A44.

<sup>1178</sup> **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977263, A29-A33.

<sup>1179</sup> See **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 0111998.

**D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168411-01168412, A92-A99 (both in support of the proposition that no distinction was made).



### 5.8.5 Arrests, detention and interrogation

384. Workers caught stealing food or even merely caught talking to one another faced arrest, interrogation and/or beatings<sup>1180</sup> and one witness details the arrest of North and East Zone Railway workers and protesting family members approximately six or seven days before the Vietnamese arrived in Stung Hav.<sup>1181</sup>
385. Minutes of a meeting of “*comrades 164*” indicate that Brother 89, Son Sen, ordered that Vung Sruol, the leader of a planned escape of 40 persons from Stung Hav, be arrested and interrogated and that soldiers be rounded up and their biographies be obtained.<sup>1182</sup> While there is insufficient evidence to conclude that such orders were carried out, these minutes nevertheless indicate the intention of senior CPK ranks that disobedience be punished.
386. Two witnesses heard of a prison in Stung Hav, which one said was for political prisoners,<sup>1183</sup> while a former Battalion 612 Commander and a former East Zone soldier testify that in the first half of 1977 or 1978 they were arrested, detained and interrogated at a “*newly built*” prison located in Stung Hav District.<sup>1184</sup> While neither the building nor the exact location of the prison site could be precisely verified during the investigation,<sup>1185</sup> the two witness accounts are sufficiently consistent in their detail to conclude that they were detained at the same prison. The witnesses state that it was controlled either by Division 164 or by military units subordinate to **Meas Muth** and **Dim**,<sup>1186</sup> and one states that Moeurn and Lan ran the prison.<sup>1187</sup>

<sup>1180</sup> **D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168411, A91-A93, ERN 01168412, A101, ERN 01168413, A104-A105; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977263-00977624, A34.

<sup>1181</sup> **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197-01025198, A18.

<sup>1182</sup> **D1.3.8.4**, Minutes of the meeting of comrades 164: Report on vessel training, 9 September 1976, ERN 00657355-00657356.

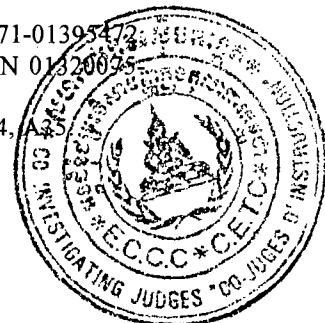
<sup>1183</sup> **D114/155**, Written Record of Interview of Witness Sok Ren, 13 January 2016, ERN 01207301-01207302, A61-A62; **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977264, A37.

<sup>1184</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320072-01320074, A27-A34; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395464-01395465, unnumbered A, ERN 01395468-01395470, A27-A36.

<sup>1185</sup> **D114/275**, Site Identification Report, 2 November 2016, ERN 01346014, ERN 01346029; **D114/235**, Written Record of Investigation Action, 25 July 2016, ERN 01310769.

<sup>1186</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395471-01395472, A42-A47; **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320075, A35, A36, A40-A41.

<sup>1187</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320074, A35.



387. One witness was arrested by Moeurn and Lan who “were regiment”, accused of breaking items and being from a rich family,<sup>1188</sup> while the other was arrested with four or five others; he was not told the reasons for his arrest.<sup>1189</sup>
388. The prison was approximately 30 to 40 metres long and 4 metres wide and was divided into small rooms, each approximately one by one and a half metres in size, that each held one prisoner.<sup>1190</sup> One witness saw 20 to 30 prisoners while he was detained,<sup>1191</sup> while another guessed there were around 10 during his detention.<sup>1192</sup> Neither, however, could recall for how long they were detained.<sup>1193</sup>
389. The prison was guarded.<sup>1194</sup> One witness testifies he was prone on the floor at all times, was not allowed to get up or leave the room to relieve himself, was handcuffed day and night and had his feet chained, although sometimes his hands were un-cuffed to allow him to eat.<sup>1195</sup> Another had his hands chained behind his back at night,<sup>1196</sup> and his ankles were chained for work during the day.<sup>1197</sup>
390. These two witnesses were interrogated about their positions within the CIA, KGB and/or the “Yvon” and were repeatedly beaten with whips, electrical cables and a stingray’s tail, with one also being subjected to electric shocks.<sup>1198</sup> The other was beaten for breaking hoes and baskets and digging around for food.<sup>1199</sup>

<sup>1188</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320073, A30-A32.

<sup>1189</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395464-01395466, ERN 01395467-01395467, A24, ERN 01395471, A40-A41.

<sup>1190</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320074, A33-A34; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395464-01395465, unnumbered A, ERN 01395472, A48-A49.

<sup>1191</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320074, A33-A34.

<sup>1192</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395472, A53, ERN 01395473, A55.

<sup>1193</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320074-01320075, A36-A37, ERN 01320078, A50; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395470, A34-A37.

<sup>1194</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395472, A49, A52; **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320074, A33-A34.

<sup>1195</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320074, A33-A34, ERN 01320078, A49, A51.

<sup>1196</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395473 A59, ERN 01395475, A67.

<sup>1197</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395464-01395466, unnumbered A, ERN 01395473, A59, ERN 01395475, A67; **D114/220**, Written Record of Interview of Witness San Chuon, 16 June 2016, ERN 01395482, A5.

<sup>1198</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320074-01320075, A33, A35-A37, ERN 01320078, A50; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395473, A59, ERN 01395475, A67.



391. One witness was arrested, detained and interrogated, albeit not at the prison, following a thwarted rebellion against his Railway worksite manager Hoeun. After the attempted rebellion, a soldier instructed approximately 50 of the people involved, all from the East Zone, to gather at “*the military place*” approximately 100 metres from the road to Stung Hav. There soldiers arrested the group, tied their hands and walked them to a house outside Stung Hav District, where they stripped them down to their shorts. Approximately 10 soldiers guarded the prisoners.<sup>1200</sup>
392. The next day soldiers called two prisoners at a time for interrogation, with one interrogated while the other waited outside the room. The witness was interrogated twice during 13 days of imprisonment, the second time on 6 January 1979. He was questioned on his rank “*with the Yuon*”, beaten with electrical wires, subjected to electric shocks which caused him to faint, was suffocated with a plastic bag and had red ants put on him.<sup>1201</sup>
393. The prisoners had to lie on the ground behind the house, about two metres apart and without protection from mosquitoes. Fed only small amounts of tapioca or potatoes and given about a litre of water per day, they became emaciated.<sup>1202</sup>

2016, ERN 01395464-01395466, unnumbered A, ERN 01395473, A59, ERN 01395474, A61-A64, ERN 01395474, A66-A67.

<sup>1199</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395474-01395475, A61-A66.

<sup>1200</sup> **D54/69**, Written Record of Interview of Witness Nong Net, 6 March 2014, ERN 00983554-00983555, A4-A7, ERN 00983556, A11-A13, ERN 00983560, A37; **D54/68**, Written Record of Interview of Witness Nong Net, 5 March 2014, ERN 00983545, A17, ERN 00983547, A26-A27, ERN 00983548, A29, ERN 00983549, A34; **D54/68.1**, Administrative Map of Stung Hav District, Sihanouk Ville 2008-2010, 5 March 2014, ERN 01145014; **D54/68.2**, Administrative Map of Stung Hav District, Sihanouk Ville 2008-2010, 10 March 2014, ERN 00977483; **D234/2.1.138**, Transcript of Hearing on the Substance in Case 002/02 [Nong Net], 10 November 2016, ERN 01386507, lines 4-25, ERN 01386508, lines 1-24, ERN 01386516, lines 16-25, ERN 01386517, lines 1-25, ERN 01386518, lines 1-19; **D54/67**, Written Record of Interview of Witness Nong Net, 4 March 2014, ERN 00983534-00983535, A11-A13; **D54/67.3**, DC-Cam Statement of Nong Net, 29 August 2005, ERN 00983513-00983517.

<sup>1201</sup> **D54/69**, Written Record of Interview of Witness Nong Net, 6 March 2014, ERN 00983556-00983557, A14-A17, ERN 00983558-00983360, A22-A32; **D54/67**, Written Record of Interview of Witness Nong Net, 4 March 2014, ERN 00983534-00983535, A11-A13; **D54/67.3**, DC-Cam Statement of Nong Net, 29 August 2005, ERN 00983513-00983517.

<sup>1202</sup> **D54/69**, Written Record of Interview of Witness Nong Net, 6 March 2014, ERN 00983556, A14, ERN 00983560, A33-A34; **D234/2.1.138**, Transcript of Hearing on the Substance in Case 002/02 [Nong Net], 10 November 2016, ERN 01386517, lines 7-25, ERN 01386518, lines 1-24; **D54/67**, Written Record of Interview of Witness Nong Net, 4 March 2014, ERN 00983534-00983535, A11-A13; **D54/67.3**, DC-Cam Statement of Nong Net, 29 August 2005, ERN 00983515-00983517. The witness is inconsistent in stating, in his WR of Interview that he received tapioca leaf, and, in his DC-Cam Statement and in Case 002/02, that it was potato. Despite this inconsistency, the conclusion that the prisoners received insufficient food is not affected.



394. While other witnesses state that no arrests occurred during their time in Stung Hav<sup>1203</sup> and that there was no detention place,<sup>1204</sup> the accounts of others are sufficiently detailed and consistent in relation to the description of the prison, and in relation to interrogation methods as well as the treatment of prisoners to conclude that they, and between at least 10 and 50 others, were arrested, detained and interrogated in Stung Hav, including at a prison. Prisoners included former East Zone and Division 164 soldiers.

#### 5.8.6 *Killings and disappearances*

395. Witnesses state that people were killed or taken away and never seen again,<sup>1205</sup> including, for example if assigned work was not completed or if they “*went against*” their superiors,<sup>1206</sup> and/or for repeatedly making mistakes, such as being late.<sup>1207</sup> Such accounts are, however, insufficiently detailed to provide the basis for drawing conclusions regarding probable victim numbers.

396. The disappearances of 9 people are, however, established.<sup>1208</sup>

397. When people were taken away and disappeared others were often told that they had been taken to be educated, or for “*studies*”,<sup>1209</sup> or to work elsewhere.<sup>1210</sup>

398. Four or five other persons detained with San Chuon at Stung Hav Prison were killed or disappeared at the time of their detention and interrogation, with two disappearing after

<sup>1203</sup> **D114/121**, Written Record of Interview of Witness Suon Phar, 10 September 2015, ERN 01168317, A42, ERN 01168318, A45.

<sup>1204</sup> **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479386, A80-A81.

<sup>1205</sup> **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148805, A102; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395464-01395466, unnumbered A.

<sup>1206</sup> **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226277, A25, ERN 01226278, A27-A29.

<sup>1207</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987502, A36, ERN 00987504, A51; *see also* **D1.3.13.8**, OCP Interview of Pen Sarin, 13 August 2008, ERN 00217561.

<sup>1208</sup> **Four: D114/130**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168412, A99-A101, ERN 01168413, A105-A108, ERN 01168416-01168417, A127-A132. **Three: D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977303, A34. **Two: D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977253, A24.

<sup>1209</sup> **D54/12**, Written Record of Interview of Witness Pres Mean, 25 June 2013, ERN 00977253, A23; **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395464, unnumbered A; **D114/104**, Written Record of Interview of Witness Iem Phong, 1 October 2015, ERN 01168417, A132.

<sup>1210</sup> **D114/146**, Written Record of Interview of Witness Uy Nhoek, 14 December 2015, ERN 01188630, A47.



escaping, being recaptured and returned to the prison.<sup>1211</sup> “Once in a while” other prisoners disappeared.<sup>1212</sup>

399. Long Phansy saw and heard vehicles arriving at Stung Hav Prison during the night while he was detained, with prisoners having disappeared by the following morning, but he did not see prisoners die at Stung Hav Prison.<sup>1213</sup> There is, however, a risk of overlap with those detailed by San Chuon.

400. Several witnesses state that no one was killed at or disappeared from Stung Hav or particular units or worksites, or that they did not witness such events.<sup>1214</sup> The remaining witness accounts set out above, however, support the conclusion that people were killed or that they disappeared – with the only plausible conclusion being that those who disappeared were also killed – while working in Stung Hav or imprisoned at Stung Hav Prison or elsewhere in the area. Based on their testimony, a conservative estimate is that a minimum of **15** people were killed or disappeared.

401. There is evidence to indicate that Battalion 450 (“*special unit*”) was involved in the arrest of workers and supervision of workers at, at least, one rock breaking site.<sup>1215</sup>

#### 5.8.7 Visits by Meas Muth

402. **Meas Muth** visited some worksites, including a quarry on the west of the Stung Hav peninsula, from mid-1976 on a weekly or semi-monthly basis, including when worksites were opened and when Chinese visitors came; he visited smaller worksites located on the east of the Stung Hav peninsula less often.<sup>1216</sup> It is not clear if **Meas**

<sup>1211</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395470, A35, A38, ERN 01395471, A40, ERN 01395476-01395477, A76-A78.

<sup>1212</sup> **D114/219**, Written Record of Interview of Witness San Chuon, 15 June 2016, ERN 01395474, A60.

<sup>1213</sup> **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320074, A34, ERN 01320078-01320079, A52-A54, A56.

<sup>1214</sup> **D54/13**, Written Record of Interview of Witness Pres Mean, 26 June 2013, ERN 00977262, A24, ERN 00977264, A38; **D114/109**, Written Record of Interview of Witness Prum Sambat, 26 July 2015, ERN 01170507, A210, ERN 01170508, A242, A245; **D114/244**, Written Record of Interview of Witness In Yoeu, 10 August 2016, ERN 01479382, A44-A46, ERN 01479385, A72; **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987504, A49.

<sup>1215</sup> **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197-01025198, A18; **D114/178**, Written Record of Interview of Witness Oem Sokhan, 24 February 2016, ERN 01226276, A19, ERN 01226278, A30, ERN 01226279, A34.

<sup>1216</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987503, A43, ERN 00987504-00987505, A52-A57; **D54/77.1**, Administrative Map of Steung Hav District, Sihanouk Ville, 2008, 2010, 1 April 2014, ERN 00982557; **D114/146**, Written Record of Interview of Witness Uy Nhoek, 14 December 2015, ERN 01185631-01185632, A50-A53; **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320072, A26; **D114/215**, Written Record of Interview of Witness Meas



**Muth** visited Stung Hav after the middle of 1977, because some witnesses allege that he did not do so anymore, either after the middle of 1977, or at least at a point in time during 1978,<sup>1217</sup> however Uy Nhik testifies that he saw **Meas Muth** once every two weeks after he arrived at Stung Hav at the end of 1977.<sup>1218</sup>

## 5.9 Toek Sap Security Centre

### 5.9.1 Location and establishment

403. The Toek Sap Security Centre (“Toek Sap”) was located in Prey Nob District, Kampong Som Province, to the north of National Road 4 and east of the Toek Sap River. On the west side of the river, opposite of the location of the Security Centre, is the village of Smach Deng.<sup>1219</sup> Toek Sap is 20 kilometres east of Sihanoukville.<sup>1220</sup>
404. Before the DK period, the Toek Sap area hosted a Lon Nol army base.<sup>1221</sup> When the Khmer Rouge gained control of the area in April 1975,<sup>1222</sup> Regiment 63 of Division 164 of the RAK established its headquarters at Toek Sap.<sup>1223</sup>

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June 2016, ERN 01333470, A12, ERN 01333475, A39, ERN 01333478, A58-A59, ERN 01333479, A64; **D114/215.3**, Attachment 3: Administrative Map of Steung Hav District, Sihanouk Vill 2008-2010, 10 June 2016, ERN 01301427; **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119981, A25.

<sup>1217</sup> **D114/86**, Written Record of Interview of Witness Chet Bunna, 16 June 2015, ERN 01119981, A25; **D114/215**, Written Record of Interview of Witness Meas Im, 10 June 2016, ERN 01333475, A39.

<sup>1218</sup> **D54/77**, Written Record of Interview of Witness Uy Nhik, 1 April 2014, ERN 00987499, A17, ERN 00987501, A34, ERN 00987504-00987505, A52-A55.

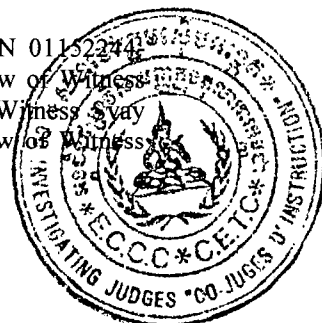
<sup>1219</sup> **D114/56**, Site Identification Report, 12 March 2015, ERN 01075844; **D114/99**, Site Identification Report, 22 July 2015, ERN 01125401-01125405; **D114/227**, Site Identification Report, 28 June 2016, ERN 01301664; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111733, A25-A26; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235043, A26; **D54/48**, Written Record of Interview of Witness Em Sun, 28 November 2013, ERN 00974963, A53; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001473, A24; **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076873, A10; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207332, A128-A121; **D114/156.1**, Annex 1: Sketch of Places, ERN 01197078; **D114/242**, Written Record of Interview of Witness Chheng Cheang, 6 August 2016, ERN 01479347-01479348, A88-A90.

<sup>1220</sup> **D114/141**, Site Identification Report, 18 November 2015, ERN 01173095; **D114/227**, Site Identification Report, 28 June 2016, ERN 01301664.

<sup>1221</sup> **D114/114**, Written Record of Interview of Witness Svay Saman, 2 September 2015, ERN 01152235, A23; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, A43-A44, ERN 01053546; **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076872-01076873, A10; **D114/3**, Written Record of Interview of Witness Lak Saphan, 10 September 2014, ERN 01046910, A2.

<sup>1222</sup> **D114/68**, Written Record of Interview of Witness Kuy Sambath, 1 May 2015, ERN 01111724, A9; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053546, A43-A44, ERN 01053548, A52; **D54/116**, Written Record of Interview of Witness Neak Yoeun, 8 August 2014, ERN 01076873, A10.

<sup>1223</sup> **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152244-01152245, A8-A14, ERN 01152247-01152248, A27-A30; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041, A19; **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118159-01118160, A20; **D114/156**, Written Record of Interview of Witness





405. Toek Sap comprised several facilities:<sup>1224</sup> detention buildings;<sup>1225</sup> ammunition warehouses;<sup>1226</sup> sleeping quarters and an eating hall for military personnel;<sup>1227</sup> a timber saw mill,<sup>1228</sup> and plantations, including durian, rambutan, black pepper, and jackfruit.<sup>1229</sup> The compound was not fenced, but guards were stationed next to the prison.<sup>1230</sup> Civilians were not allowed to enter the compound without authorisation.<sup>1231</sup>
406. It is unclear when the detention center was opened. However, there is evidence that it was operational and guarded from at least 1976,<sup>1232</sup> and that it operated until the arrival of the Vietnamese in January 1979.<sup>1233</sup>

Soeng Noch, 25 January 2016, ERN 01207333, A137-A138; **D114/156.1**, Annex 1: Sketch of Places, ERN 01197078; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053539, A5; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056713, A13; **D114/18**, Written Record of Interview of Witness Mak Chhoeun, 21 October 2014, ERN 01040426, A27, ERN 01040428, A35.

<sup>1224</sup> **D114/141**, Site Identification Report, 18 November 2015, ERN 01173120; **D114/54**, Site Identification Report, 29 January 2015, ERN 01074081, ERN 01074091-01074092.

<sup>1225</sup> **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152246, A18; **D54/27**, Written Record of Interview of Witness Pak Sok, 22 October 2013, ERN 00977846-00977847, A9-A11; **D54/92**, Written Record of Interview of Witness Yem Sam On, 8 May 2014, ERN 01055521, A35.

<sup>1226</sup> **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111733, A25, A27; **D114/70**, Written Record of Interview of Witness Kuy Sambath, 5 May 2015, ERN 01111739, A7; **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152248, A29-A30; **D114/227**, Site Identification Report, 28 June 2016, ERN 01301669.

<sup>1227</sup> **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN01152247, A26; **D114/116**, Written Record of Interview of Witness Svay Saman, 4 September 2015, ERN 01172471, A2, ERN 01172472, A19; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235043, A26.

<sup>1228</sup> **D114/182**, Written Record of Interview of Witness Huong Khan, 3 March 2016, ERN 01226323, A17; **D114/116**, Written Record of Interview of Witness Svay Saman, 4 September 2015, ERN 01172472, A19; **D114/202**, Written Record of Interview of Witness Ou Sarann, 26 April 2016, ERN 01306461, A19.

<sup>1229</sup> **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152248, A29; **D114/2**, Written Record of Interview of Witness Lak Saphan, 9 September 2014, ERN 01046903, A10, ERN 01046905, A20; **D54/121**, Written Record of Interview of Witness Lin Sarin, 19 August 2014, ERN 01066699, A4; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079222, A10; **D114/177**, Written Record of Interview of Witness Meng Soek, 23 February 2016, ERN 01224738, A43-A47; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711, A5.

<sup>1230</sup> **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN01152249, A39; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235043, A26; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001473, A25; **D54/27**, Written Record of Interview of Witness Pak Sok, 22 October 2013, ERN00977847, A11.

<sup>1231</sup> **D114/202**, Written Record of Interview of Witness Ou Sarann, 26 April 2016, ERN 01306461, A17; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056715, A20, A22; **D114/3**, Written Record of Interview of Witness Lak Saphan, 10 September 2014, ERN 01046910, A4; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111730, A7, ERN 01111733, A27; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001473, A26.

<sup>1232</sup> **D54/27**, Written Record of Interview of Witness Pak Sok, 22 October 2013, ERN 00977846-00977847, A10-A11.

<sup>1233</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320076, A48; **D54/27**, Written Record of Interview of Witness Pak Sok, 22 October 2013, ERN00977846, A10; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079219-01079221, A1-A27, A26; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053548, A52.



407. Today, almost no buildings or structures of the original compound remain.<sup>1234</sup> The whole compound, including the fruit plantations, comprised several hectares;<sup>1235</sup> witness Sok Vanna's estimate that the military base was about 500m<sup>2</sup> in size is unrealistic and contradicts the remainder of the evidence.<sup>1236</sup> Several witnesses identify places where they state to have noticed mass graves in the midst of plantations;<sup>1237</sup> however, there is no reliable evidence about the precise location of the prison buildings.<sup>1238</sup>

### 5.9.2 *Structure and personnel*

408. Toek Sap was the main base of Regiment 63 of Division 164,<sup>1239</sup> yet many of its troops were stationed on islands or other coastal locations around Kampong Som.<sup>1240</sup>

409. Initially Mom Yan alias Mom Chim was the Commander of Regiment 63,<sup>1241</sup> but he was arrested and taken to S-21 in May 1977.<sup>1242</sup> He was succeeded by Chorn, and a

<sup>1234</sup> **D114/141**, Site Identification Report, 18 November 2015, ERN 01173113; **D114/227**, Site Identification Report, 28 June 2016 ERN 01301667-01301669; **D114/176**, Written Record of Interview of Witness Chan Savoeun, 22 February 2014, ERN 01223481, A8-A9, ERN 01223481, A16, ERN 01223482, A18; **D114/99**, Site Identification Report, 22 July 2015, ERN 01125402.

<sup>1235</sup> **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, 01111733, A27; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711, A5; **D114/3**, Written Record of Interview of Witness Lak Saphan, 10 September 2014, ERN 01046912, A10; **D114/141**, Site Identification Report, 18 November 2015, ERN 01173115-01173116, ERN 01173120-01173121.

<sup>1236</sup> **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053547, A48.

<sup>1237</sup> **D54/121**, Written Record of Interview of Witness Lin Sarin, 19 August 2014, ERN 01066703, A24-A25; **D114/99**, Site Identification Report, 22 July 2015, ERN 01125388, ERN 01125402-01125407; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711, A5, ERN 01056717, A28; ERN 01056717-01056718, A30-A31; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN01056727, A21-A22; **D114/3**, Written Record of Interview of Witness Lak Saphan, 10 September 2014, ERN 01046912, A10-A14; **D114/141**, Site Identification Report, 18 November 2015, ERN 01173115-01173116; **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207334, A141.

<sup>1238</sup> Svay Saman, a member of Regiment 63 who worked at the compound from late 1975 until mid-1977, told the OCIJ that the prison was at the foot of the mountain and drew a map indicating key locations at the site, including the prison at the eastern side of the compound: **D114/114**, Written Record of Interview of Witness Svay Saman, 2 September 2015, ERN01152234, A15; **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152245, A10, ERN 01152246, A17, ERN 01152246, A21, ERN 01152247, A27 ERN 01152252, A56; **114/116.1**, Annex 1: Sketch of Places, ERN 01138899; **D114/141**, Site Identification Report, 18 November 2015, ERN 01173120.

<sup>1239</sup> **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118160, A20; **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152244-01152245, A8-A10; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041, A19; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053538, A5; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN01076867, A142; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 0105673-01056714, A13; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079220, A4.

<sup>1240</sup> **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977713-00977714, A6-A7; **D114/104**, Written Record of Interview of Witness Iem Phong, 11 August 2015, ERN 01148798, A44-A45; **D114/18**, Written Record of Interview of Witness Mak Chhoeun, 21 October 2014, ERN 01032422, ERN 01032426, ERN 01032428, A5-A6, A24, A36.



cadre named Nhan became Chorn's deputy.<sup>1243</sup> Chorn was arrested later in 1977 and replaced by Nhan,<sup>1244</sup> who remained in that position until shortly before the end of the DK period, when he was appointed to Division 117.<sup>1245</sup> It is not clear who replaced Nhan at that point.<sup>1246</sup>

410. The prison guards belonged to a special unit of Regiment 63, consisting of 30-40 soldiers.<sup>1247</sup> In 1975, the head of that unit was a cadre named Chhim.<sup>1248</sup> One witness, who was detained at Toek Sap in late 1978 until the arrival of the Vietnamese forces, states that the guards were "little kids".<sup>1249</sup> Fifty soldiers guarded the ammunition warehouse.<sup>1250</sup>

### 5.9.3 Arrests and detention

411. Toek Sap was used as a detention centre primarily for soldiers from Division 164 who were considered "no-good elements";<sup>1251</sup> they were often first grouped together to work

<sup>1241</sup> **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN01118160, A30; **D114/116**, Written Record of Interview of Witness Svay Saman, 4 September 2015, ERN 01172473, A26-A32.

<sup>1242</sup> **D114/18**, Written Record of Interview of Witness Mak Chhoeun, 21 October 2014, ERN 01040422, A6; **D1.3.28.45**, List of prisoners whose documentation has been done, 26 August 1977, ERN 01321440; **D1.3.28.2**, Name of prisoners of military section, ERN 01321750; **D114/230.1.1**, OCIJ S-21 Prisoner List, ERN 01222519, n. 4797.

<sup>1243</sup> **D114/18**, Written Record of Interview of Witness Mak Chhoeun, 21 October 2014, ERN 01040423, A11; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041, A19; **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152244-01152245, A8-A10, A14; **D114/77**, Written Record of Interview of Witness Svay Sameth, 27 May 2015, ERN 01118160, A20, A30; **D1.3.30.5**, DK Military Report entitled "Table of Statistics on Students Studying at the First General Staff Study Session", 20 October 1976, ERN 00897655.

<sup>1244</sup> **D114/18**, Written Record of Interview of Witness Mak Chhoeun, 21 October 2014, ERN 01040423, A11; **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977528, A1; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235039, A12, ERN 01235041, A19.

<sup>1245</sup> **D114/18**, Written Record of Interview of Witness Mak Chhoeun, 21 October 2014, ERN 01040424, A16; **D114/52**, Written Record of Interview of Witness Cheang Chuo, 22 February 2015, ERN 01076749, A35, ERN 01076750, A40-A42; **D54/110**, Written Record of Interview of Witness Lon Seng, 23 June 2014, ERN 01331642, A6.

<sup>1246</sup> **D114/18**, Written Record of Interview of Witness Mak Chhoeun, 21 October 2014, ERN 01040425, A18-A21.

<sup>1247</sup> **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152249, A36-37.

<sup>1248</sup> **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152250, A45.

<sup>1249</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320079, A55.

<sup>1250</sup> **D114/115**, Written Record of Interview of Witness Svay Saman, 3 September 2015, ERN 01152247, A28.

<sup>1251</sup> **D54/23**, Written Record of Interview of Witness Pak Sok, 18 October 2013, ERN 00977537, A41; **D54/27**, Written Record of Interview of Witness Pak Sok, 22 October 2013, ERN 00977846, A8-A9; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412622-01412623; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475847, A5; ERN 01475851, A39-A41; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076866, A138-A140; **D114/208**, Written Record of Interview of Witness Long Phansy, 20 May 2016, ERN 01320077, A48; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A4.



in mobile units,<sup>1252</sup> and if they committed mistakes or attempted to escape they were sent to Toek Sap.<sup>1253</sup>

412. In late 1978, one witness was arrested for having left his worksite and detained for 29 days, before being transferred to Toek Sap, where he was detained for another three days along with four to 10 other prisoners.<sup>1254</sup> Because he was known to the prison guards, he was chained by the ankle only for a short time, while other prisoners were restrained with their hands behind their backs and their ankles shackled to a pillar.<sup>1255</sup> He worked in the saw mill,<sup>1256</sup> and while he was interrogated, he was not beaten.<sup>1257</sup> He never saw his fellow inmates again; indeed, the chances of being killed or dying of starvation at Toek Sap were high.<sup>1258</sup> After the three days, he was transferred to Wat Enta Nhien Security Centre.<sup>1259</sup>
413. Another witness detained at Toek Sap along with twelve other prisoners<sup>1260</sup> for two to three months before the arrival of the Vietnamese<sup>1261</sup> had been the commander of Battalion 612 of Division 164.<sup>1262</sup> He was moved to Toek Sap after having been

<sup>1252</sup> **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299, A1-A3; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041, A19; **D114/85**, Written Record of Interview of Witness Chet Bunna, 15 June 2015, ERN 01119970, A5; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412624.

<sup>1253</sup> **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299-00977300, A4, A7-A8; ERN 00977303, A31; **D114/242**, Written Record of Interview of Witness Prak Bunny, 8 August 2016, ERN 01479347, A82-A86, ERN 01479349, A98-A99; **D114/109**, Written Record of Interview of Witness Prum Sambath, 26 August 2015, ERN 01170503, A139-144; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056725, A17; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041, A19; **D114/85**, Written Record of Interview of Witness Chet Bunna, 15 June 2015, ERN 01119970, A5; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475849, A22, ERN 01475851, A39-A40, ERN 01475858, A48, ERN 01475852-01475853, A66; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076866, A137-A139.

<sup>1254</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056673, A116, ERN 01056679, A164; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079219, A1-A2, ERN 01079221, A6; **D114/54**, Site Identification Report, 29 January 2015, ERN 01074090-01074093; **D114/39**, Written Record of Interview of Witness Moul Chhin, 26 January 2015, ERN 01079211, A2-A3.

<sup>1255</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079219-01079220, A2; **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056679, A167.

<sup>1256</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079221, A6.

<sup>1257</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079219, A2.

<sup>1258</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079221, A8.

<sup>1259</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079221, ERN 01079219, A1.

<sup>1260</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320076, A42, ERN 01320077, A48.

<sup>1261</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320075, A37, ERN 01320078, A50.

<sup>1262</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320069-01320070, A15-A19, ERN 01320075, A37; **D1.3.30.5**, DK Military Report entitled "Table of Statistics on Students Studying at the First General Staff Study Session, 20 October 1976, ERN 00897656, n. 133.



detained at Stung Hav but it is uncertain how long he was detained at either site.<sup>1263</sup> He was arrested for two reasons: first, he was accused of being a CIA/KGB spy because of broken tools in his unit; second, because he came from a wealthy urban, family.<sup>1264</sup> At Toek Sap, he was shackled and tortured daily with electric whips,<sup>1265</sup> and more severely when the vegetable crop he cultivated failed.<sup>1266</sup> His account is partially corroborated by witnesses who saw torture equipment and leg shackles at Toek Sap after the fall of DK.<sup>1267</sup> During his detention, the witness was made to taste fertiliser made from faeces.<sup>1268</sup>

414. Apart from soldiers, civilians from local cooperatives who committed mistakes, were considered lazy, or stole food were also detained at Toek Sap<sup>1269</sup> as were civilians working for disgraced military commanders. In late 1976 or at the beginning of 1977,<sup>1270</sup> after the arrest of the commander of Sector 37, Norng Chhan, about 20 unmarried women who had worked closely with Chhan were sent to Toek Sap.<sup>1271</sup> They were strictly guarded and had bruised faces and lumps on their limbs. Their fate is uncertain, but by 1979, at least some of them had not returned home.<sup>1272</sup>
415. Prisoners at Toek Sap were made to work in the fields surrounding the compound,<sup>1273</sup> had to work very hard in order to survive<sup>1274</sup> and were guarded while working.<sup>1275</sup> They

<sup>1263</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320072, A28, ERN 01320078, A50.

<sup>1264</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320073, A30.

<sup>1265</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320075, A37.

<sup>1266</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320077, A46.

<sup>1267</sup> **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111730, A7;

**D114/242**, Written Record of Interview of Witness Prak Bunny, 1 August 2016, ERN 01479348, A92-A94.

<sup>1268</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320077, A46.

<sup>1269</sup> **D114/242**, Written Record of Interview of Witness Prak Bunny, 1 August 2016, ERN01479338, A9, ERN 01479349, A99-A103; **D114/89**, Written Record of Interview of Witness Seng Sin, 24 June 2015, ERN 01128188, A46, ERN 01128190, A72, ERN 01128190-01128191, A91-A93; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056724-01056725 A12-A17. *See also D54/24.1*, DC-Cam Interview of Pak Sok, 25 April 2007, ERN00978579.

<sup>1270</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001469, A1.

<sup>1271</sup> **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182, A3. Chhan had been arrested by November 1976, *see D22.2.33*, S-21 Confession of Chey Han, 10 November 1976, ERN 01189488.

<sup>1272</sup> **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182, A3.

<sup>1273</sup> **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320077, A46;

**D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235041, A19; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001473, A23-A25; **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182-01025183, A3, A5, A7.

<sup>1274</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001473, A26.

<sup>1275</sup> **D54/103**, Written Record of Interview of Witness Ek Ny, 2 June 2014, ERN 01025182, A3.



were shackled by their ankles<sup>1276</sup> or wrists.<sup>1277</sup> Some were even tied together with a rope through their ears which had been pierced for that purpose.<sup>1278</sup> They were weak, exhausted, and emaciated;<sup>1279</sup> they were interrogated, and some were beaten during the interrogation.<sup>1280</sup>

416. The number of inmates at Toek Sap seems to have varied over time. There is hearsay evidence from one witness that there were about 100 prisoners detained with him in 1977.<sup>1281</sup> Another estimates that 50 or 60 people were detained at Toek Sap between 1976 and 1977.<sup>1282</sup> Between mid-1977 and mid-1978, another witness saw 20 to 30 prisoners near the prison.<sup>1283</sup> It is unclear, on the one hand, whether these were – at least in part – the same people and it is likely, on the other hand, that the inmates seen by those witnesses did not represent the entirety of the inmate population.

417. While it is not possible to determine the exact number of people detained at Toek Sap during the considerable time of its operation, considering that civilians and soldiers were detained there, and that arrests at the cooperatives were, as described below, a daily occurrence, many hundreds of inmates must have passed through the site between 1976 and 1979.

#### 5.9.4 *Killings and disappearances*

418. In the area around Toek Sap, people were often taken away, generally at night,<sup>1284</sup> and never returned.<sup>1285</sup> Commune and village militia generally arrested cooperative

<sup>1276</sup> **D54/27**, Written Record of Interview of Witness Pak Sok, 22 October 2013, ERN00977846, A6.

<sup>1277</sup> **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235043, A27.

<sup>1278</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001473, A23.

<sup>1279</sup> **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235042, A24; **D114/6**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050316, A60-A64, ERN 01050319, A84; **D54/24.1**, Attachment 1: DC-Cam Interview of Pak Sok, 25 April 2007, ERN 00978579.

<sup>1280</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079221-01079222, A9-A10. *See also* **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320077, A46.

<sup>1281</sup> **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235040, A18.

<sup>1282</sup> **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412626.

<sup>1283</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001473, A26; **D54/105**, Written Record of Interview of Witness Ek Ny, 4 June 2014, ERN 01025197, A17.

<sup>1284</sup> **D54/123**, Written Record of Interview of Witness Lak Saphan, 21 August 2014, ERN 01066717, A1-A2.

<sup>1285</sup> **D54/122**, Written Record of Interview of Witness Lak Saphan, 20 August 2014, ERN 01066710, A5;

**D114/3**, Written Record of Interview of Witness Lak Saphan, 10 September 2014, ERN 01046911, A5;

**D4.1.477**, Written Record of Interview of Witness Hem Sambath, 17 July 2008, ERN 00275052-00275053, A1-A2;

**D54/122**, Written Record of Interview of Witness Lak Saphan, 20 August 2014, ERN 01066712, A11-A12;

**D114/116**, Written Record of Interview of Witness Svay Saman, 4 September 2015, ERN 01172471, A11-A12;

**01172474**, A44; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079221-01079222, A9-A10.



workers, while members of the military were arrested by their units' commanders or soldiers of Battalion 450.<sup>1286</sup> A witness who worked along the Toek Sap River in 1977 and 1978 saw executions and regularly observed dead bodies floating in the river near the prison.<sup>1287</sup> People knew that those taken to Toek Sap were eventually killed, because their clothes were redistributed among cooperative workers, often on the day following their arrest.<sup>1288</sup>

419. 'New people', educated persons, Khmer Krom, and those with ties to the Lon Nol regime were especially targeted.<sup>1289</sup>

420. Not all those who were taken to Toek Sap, however, were killed, as there is evidence of a few individuals who were released from detention.<sup>1290</sup> There is some weak hearsay evidence about a general release of prisoners from Toek Sap towards the end of 1978,

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01079222, A10; **D114/209**, Written Record of Interview of Witness Moeng Seng, 22 May 2016, ERN 01307850, A46-A47; **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053541-01053542, A17-A22.

<sup>1286</sup> **D114/16**, Written Record of Interview of Witness Sok Vanna, 16 October 2014, ERN 01053541, A19; **D2/16**, Written Record of Interview of Witness Touch Soeuli, 11 November 2010, ERN 00629463, A19; **D54/101**, Written Record of Interview of Witness Ek Ny, 2 April 2014, ERN 01001465, A10; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001472, A14. *See also* **D54/7**, Written Record of Interview of Witness Dol Song, 18 June 2013, ERN 00976898, A11.

<sup>1287</sup> **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235040, A17, ERN 01235042-01235043, A24.

<sup>1288</sup> **D4.1.477**, Written Record of Interview of Witness Hem Sambath, 17 July 2008, ERN 00275053; **D54/114**, Written Record of Interview of Witness Hem Sambath, 31 July 2014, ERN 01044949-01044950, A44-A51; **D54/123**, Written Record of Interview of Witness Lak Saphan, 21 August 2014, ERN 01066717, A1; **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711-01056713, A5-A11. *See also* **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056711, A5, ERN 01056714, A16, ERN 01056715, A19; **D54/90**, Written Record of Interview of Witness Kuy Nen, 5 May 2014, ERN 01056725, A17; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079222, A10.

<sup>1289</sup> **D54/122**, Written Record of Interview of Witness Lak Saphan, 20 August 2014, ERN 01066709-01066710, A5; **D54/123**, Written Record of Interview of Witness Lak Saphan, 21 August 2014, ERN01066717, A2; **D4.1.477**, Written Record of Interview of Witness Hem Sambath, 17 July 2008, ERN 00275052-00275053; **D54/114**, Written Record of Interview of Witness Hem Sambath, 31 July 2014, ERN 01044949, A44-A45; **D114/297.1.20**, Transcript of Hearing on the Substance in Case 002/02 [Pak Sok], 16 December 2015, ERN 01412594, ERN 01412627-01412628; **D54/36**, Written Record of Interview of Witness Brak Sokha, 13 November 2013, ERN 00977299-00977300, A7; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128181, A35-A36; **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 0111728, A1; ERN 0111731, A9-A16, ERN 0111732, A21, ERN 0111733, A28-A32; **D114/70**, Written Record of Interview of Witness Kuy Sambath, 5 May 2015, ERN 0111738-0111739, A1-A8; **D114/141**, Site Identification Report, 18 November 2015, ERN 01173102-01173105; **D54/119**, Written Record of Interview of Witness Prom Kem, 16 August 2014, ERN 01066690-01066691, A7-A9, ERN 01066692, A16; **D54/121**, Written Record of Interview of Witness Lin Sarin, 19 August 2014, ERN 01066698-01066699, A1-A2, ERN 01066700, A8-A9, ERN 01066700-01066702, A10, A12-14, A15, A17; **D114/56**, Site Identification Report, 12 March 2015, ERN 01075848-01075853.

<sup>1290</sup> **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207334, A14; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076866, A140; **D114/18**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050316, A57-A64, ERN 01050318, A10; **D114/18**, Written Record of Interview of Witness Yin Teng, 7 October 2014, ERN 01050319, A80-A86.



but the witnesses who testify to that effect provide no testable basis for their knowledge,<sup>1291</sup> whereas specific and credible evidence from inmates who remained at Toek Sap until the arrival of Vietnamese render that hearsay evidence unreliable.<sup>1292</sup>

421. Several witnesses saw very large numbers of bodies at the Toek Sap compound in 1979 or 1980, after the fall of DK, with some of the remains showing typical signs of death by execution. Kuy Sambath, for instance, saw up to 1,000 dead bodies, including skulls of children and babies, in a location near the former warehouses in Toek Sap in 1979.<sup>1293</sup> Some of the bodies had their arms tied behind their back or their legs tied to one another.<sup>1294</sup> In 1980, a witness took part in the unearthing of graves and collection of bones<sup>1295</sup> and saw pits dug beneath durian and rambutan trees containing skulls and other bones. He personally unearthed three pits and found a total of approximately four to 10 skulls and other bones, including those of children.<sup>1296</sup> Another witness saw human remains both in pits and scattered on the ground, as well as military uniforms of Lon Nol soldiers.<sup>1297</sup> The bodies and pits covered an area of thirty hectares and were so many that he could not count them.<sup>1298</sup> Some bodies were still tied.<sup>1299</sup> After the fall of DK, a third witness went to the durian plantation at Toek Sap, which he estimates to be 10 hectares in size, and saw that each durian tree had four graves excavated around it. The witness saw some bones protruding from some of those graves. He also saw bodies and clothes scattered around as they had been dug up by people in search for valuables. The witness does not remember seeing bodies being tied up, but saw some scattered

<sup>1291</sup> **D114/18**, Written Record of Interview of Witness Mak Chhoeun, 21 October 2014, ERN 01032429, A38; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076842-01076844, A6-A10, A16, ERN 01076866-0107867, A140-A142; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001473-01001474, A26-A27.

<sup>1292</sup> **D114/31**, Written Record of Interview of Witness Moul Chhin, 17 December 2014, ERN 01056679, A164-A167, ERN 01056681, A176; **D114/208**, Written Record of Interview of Witness Phansy Long, 20 May 2016, ERN 01320077, A43, A46. *See also* **D54/27**, Written Record of Interview of Witness Pak Sok, 22 October 2013, ERN00977846, A10.

<sup>1293</sup> **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111729-01111730, A1, A7-A8, ERN 01111733, A32; **D114/141**, Site Identification Report, 18 November 2015, ERN 01173121.

<sup>1294</sup> **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111733, A33.

<sup>1295</sup> **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207334, A141-A143, ERN 01207335-01207336, A155-A162.

<sup>1296</sup> **D114/156**, Written Record of Interview of Witness Soeng Noch, 25 January 2016, ERN 01207334, A141-A143, ERN 01207335, A155, ERN 01207336, A162, A164.

<sup>1297</sup> **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056717, A30, ERN 01056718, A32.

<sup>1298</sup> **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056717, A30.

<sup>1299</sup> **D54/89**, Written Record of Interview of Witness Kuy Nen, 3 May 2014, ERN 01056718, A31.





nylon strings and cracked skulls.<sup>1300</sup> A fourth witness, who was 90 years old at the time of his interview and clearly suffered from memory gaps, saw wild pigs digging up bones in the lower part of Toek Sap, with some remains clothed in military uniforms, some of which were black Khmer Rouge uniforms. Considering that Lon Nol and Khmer Rouge forces had been fighting each other in that area before April 1975, some of those remains may have belonged to victims of the fighting.<sup>1301</sup> However, the witness saw a high number of rectangular pits under durian trees in the upper part of Toek Sap.<sup>1302</sup> There were hundreds of trees and almost every tree had a pit dug under it, but the witness did not dig up the pits to see if any bones were in them. He assumes people had been buried underneath them because the durian trees were dying.<sup>1303</sup> Due to his age and the state of his memory, this testimony is in and of itself not sufficiently reliable; however, his account matches the third witness' evidence, discussed above, of graves dug under each tree in the plantation.

422. A fifth witness went to Toek Sap after the fall of the DK Regime and saw one or two graves at the trunks of the durian and rambutan trees on the eastern side of the Toek Sap River, and estimates that there were about 20 or 30 graves in total under the trees.<sup>1304</sup>
423. When OCIJ investigators surveyed the alleged mass grave site in 2015, they found that it had undergone substantial movement of soil and had then been bulldozed. The investigators could thus not find any human remains or indications of graves at this site.<sup>1305</sup>
424. It is impossible to establish the number of people killed after being detained at Toek Sap. As discussed above in the context of detention and for the same reasons, it is

<sup>1300</sup> **D114/3**, Written Record of Interview of Witness Lak Saphan, 10 September 2014, ERN 01046912-01046913, A9-A13.

<sup>1301</sup> **D114/177**, Written Record of Interview of Witness Meng Soek, 23 February 2016, ERN 01224736-01224738, A19, A21, A26, A45-A46.

<sup>1302</sup> **D114/177**, Written Record of Interview of Witness Meng Soek, 23 February 2016, ERN 01224738, A34, A42-A48.

<sup>1303</sup> **D114/177**, Written Record of Interview of Witness Meng Soek, 23 February 2016, ERN 01224737-01224738, A43-A44, A47.

<sup>1304</sup> **D54/121**, Written Record of Interview of Witness Lin Sarin, 19 August 2014, ERN 01066703, A24-A25; **D114/56**, Site Identification Report, 12 March 2015, ERN 01075848.

<sup>1305</sup> **D114/69**, Written Record of Interview of Witness Kuy Sambath, 4 May 2015, ERN 01111729, A41; **D114/99**, Site Identification Report, 22 July 2015, ERN 01125388, ERN 01125402; **D114/161**, Site Identification Report, 18 November 2015, ERN 01173113.



highly likely that many hundreds were killed at the site, considering the evidence of routine arrests and unexplained disappearances.

### 5.9.5 *Visits by Meas Muth*

425. Toek Sap was under the control of Division 164 but there is no reliable evidence that **Meas Muth** visited the site personally. The only two witnesses who speak to that are either not consistent in their evidence or had only limited means of observing the site from their own area of residence.<sup>1306</sup>

## 5.10 Wat Enta Nhien Security Centre

### 5.10.1 *Location and establishment*

426. Wat Enta Nhien<sup>1307</sup> was located in Kampong Som town, immediately adjacent to the access road, Santepheap Street, approximately one kilometre southwest of Independence Park. The pagoda itself is on a hill with a slope down to the east. The headquarters of Division 164 were approximately 2.5 kilometres to the southeast.<sup>1308</sup> Access to the guarded site was restricted.<sup>1309</sup>

427. The site's major features were two monks' houses and a dining hall.<sup>1310</sup> While one witness also describes 20 huts southwest of the dining hall, their existence has not been established.<sup>1311</sup>

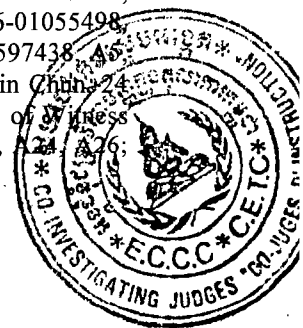
<sup>1306</sup> **D114/116**, Written Record of Interview of Witness Svay Saman, 4 September 2015, ERN 01172471, A5, A11; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01180850, A2, ERN 01235041, A20.

<sup>1307</sup> *Alternative spellings:* Eng Tea Nhien, Int Nhean, Entta Nhean, also referred to as Wat Krom or Kraom (**D54/64**, Written Record of Interview of Witness Din Chun, 22 February 2014, ERN 00981932, A1).

<sup>1308</sup> **D2/22**, Site Identification Report, 29 December 2010, ERN 00634141, ERN 00634148, ERN 00634150; **D114/46**, Site Identification Report, 12 February 2015, ERN 01065177, ERN 01065181. *See also* **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977834, A1, A3; **D54/88**, Written Record of Interview of Witness Soem Ny, 6 May 2014, ERN 01055498, A10.

<sup>1309</sup> **D54/26**, Written Record of Interview of Witness Pak Sok, 21 October 2013, ERN 00977834, A1, ERN 00977835, A7-A8; **D54/88**, Written Record of Interview of Witness Soem Ny, 6 May 2014, ERN 01055495, ERN 01055498, Q&A7-A8, ERN 01055499, A10-A11; **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628189, A30; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475850, A32, A34-A35; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079231, A49; *see also* **D1.3.13.13**, OCP Interview of Touch Souley, 16 August 2008, ERN 00217575.

<sup>1310</sup> **D114/39**, Written Record of Interview of Witness Moul Chhin, 26 January 2015, ERN 01079211-01079214, Q&A2; **D54/88**, Written Record of Interview of Witness Soem Ny, 6 May 2014, ERN 01055496-01055498, Q&A6. *See also* **D2/4**, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597438, A5, ERN 00597439, A7-A9, ERN 00597441, A21; **D54/65**, Written Record of Interview of Witness Din Chun, 22 February 2014, ERN 00981940, A15, ERN 00981944, A36; **D54/66**, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986324, A5, ERN 00986325, A10, ERN 00986327, A22,



428. It is unclear whether the site operated as a security centre – as opposed to a military garrison – in 1975,<sup>1312</sup> but prisoners were detained there from late 1976 until January 1979.<sup>1313</sup>

### 5.10.2 *Structure and personnel*

429. The site was in the general military control of Division 164 and used as a detention centre. From around April 1975, ‘special unit’ Battalion 450 was stationed there.<sup>1314</sup> The evidence, especially the testimony of Soem Ny which is central to this site, and who states that **Meas Muth** or Launh were in charge, is inconclusive regarding the continued presence of Battalion 450 after 1975; it was, however, apparently stationed there at some point in 1977.<sup>1315</sup> There is also a reported incident of the former commander of Battalion 386 being shot in front of Wat Enta Nhien by Battalion 450 soldiers in late 1976 or early 1977.<sup>1316</sup> It is not clear whether another unit was in charge of it at other times. A reasonable conclusion is therefore that Battalion 450 was in charge during the entire period.

**D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079228, A37; **D54/88**, Written Record of Interview of Witness Soem Ny, 6 May 2014, ERN 01055496, ERN 01055498, Q&A9.

<sup>1311</sup> **D54/88**, Written Record of Interview of Witness Soem Ny, 6 May 2014, ERN 01055496, ERN 01055497, A1.

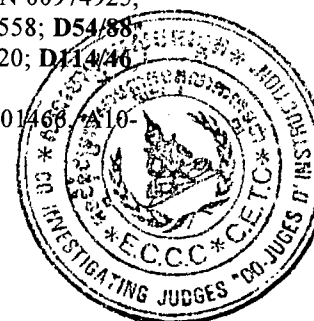
<sup>1312</sup> **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076858, A87-A91, ERN 01076859, A96; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001471, A13; **D114/187**, Written Record of Interview of Witness Touch Soeurly, 14 March 2016, ERN 01442855, Q&A10, ERN 01442857-01442858, A17-A21.

<sup>1313</sup> **1976: D54/37**, Written Record of Interview of Witness Soem Ny, 13 November 2013, ERN 00969992, A2; **D54/30.1**, DC-Cam Statement of Soem Ny, 22 June 2011, ERN 01070546-01070550; **1977: D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628186, A12, ERN 00628188, A27; **1979: D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079219-01079220, A1-A2; **D114/31**, Written Record of Interview of Witness Moul Chhin, 7 December 2014, ERN 01056678, A160; **D54/30.1**, DC-Cam Statement of Soem Ny, 22 June 2011, ERN 01070550. *See also D54/48*, Written Record of Interview of Witness Em Sun, 28 November 2013, ERN 00974961, A44; **D114/194**, Written Record of Interview of Witness Sorn Sot, 23 March 2016, ERN 01475850, A28, A32, A34-A35.

<sup>1314</sup> **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628186, A12, ERN 00628187, A14; **D114/187**, Written Record of Interview of Witness Touch Soeurly, 14 March 2016, ERN 01442857, A17-A18; **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076858, A88-A92, ERN 01076859, A96. *See also D2/4*, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597439, A7. *See RAK structure and Meas Muth's roles and responsibilities*, para. 155.

<sup>1315</sup> **D54/98**, Written Record of Interview of Witness Heang Ret, 26 May 2014, ERN 01076858, A87-A91, ERN 01076859, A96; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001471, A13; **D114/187**, Written Record of Interview of Witness Touch Soeuli, 14 March 2016, ERN 01442857-01442858, A17-A21, ERN 01442859, A26-A28, ERN 01442860-01442861, A34-A36; ERN 01442862, A43-46; **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628188-00628189, A27-A30, A33-A34; **D54/32**, Written Record of Interview of Witness Soem Ny, 8 November 2013, ERN 00974925, A33-A39; **D54/30.1**, DC-Cam Statement of Soem Ny, 22 June 2011, ERN 01070550, ERN 01070558; **D54/88**, Written Record of Interview of Witness Soem Ny, 6 May 2014, ERN 01055501, A15, A17, A19-A20; **D114/46**, Site Identification Report, 12 February 2015, ERN 01065182.

<sup>1316</sup> **D54/101**, Written Record of Interview of Witness Ek Ny, 2 April 2014, ERN 01001465-01001468, A10-A12; **D54/101.1**, Stony Beach Report, 2 April 2014, ERN 00992731.



### 5.10.3 Detention and conditions of detention

430. The site, according to some witnesses, served as a provisional detention centre where detainees were held before being released or transferred to Phnom Penh, or elsewhere.<sup>1317</sup> Regarding the length of detention, only Moul Chhin, a former detainee, testifies that he was there for three days, following his transfer from Toek Sap.<sup>1318</sup> Otherwise, the question of whether there were longer-term prisoners must be answered by inference from the remaining evidence.
431. Detainees included Division 164 soldiers.<sup>1319</sup> There is some evidence that women were also detained there.<sup>1320</sup> Numbers are, however, very vague, as is the evidence of how they varied over time.
432. Soem Ny claims he was told by detainees that there were around 70 to 80 detainees at an unspecified time during 1976 or 1977; however, this witness' testimony is unreliable and vague, and it is based on hearsay.<sup>1321</sup> Pauch Koy, at a site visit in 2010, explained that, in July 1979, the man who oversaw the water plant there for the entire time of the DK Regime took him around the compound and showed him places where people were detained and killed.<sup>1322</sup> In a small building behind the pagoda, Pauch Koy saw blood

<sup>1317</sup> **D114/31**, Written Record of Interview of Witness Moul Chin, 17 December 2014, ERN 01056660, A19, ERN 01056678, A159-A160; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079234, A62-A63; **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628188, A28; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001470-01001471, A6-A7, ERN 01001473, A23; **D54/32**, Written Record of Interview of Witness Soem Ny, 8 November 2013, ERN 00974922, A17-A18, ERN 00974924, A28; **D54/48**, Written Record of Interview of Witness Em Sun, 28 November 2013, ERN 00974963, A52; **D114/217**, Written Record of Interview of Neak Khoeurn, 13 June 2016, ERN 01348466, A9, ERN 01348467, A15-A17, ERN 01348468, A22-A23; **D54/25**, Written Record of Interview of Witness Pak Sok, 19 October 2013, ERN 00977717-00977718, A23-A25; **D54/111**, Written Record of Interview of Sam Phin, 24 June 2014, ERN 01088487, A14; **D114/181**, Written Record of Interview of Witness Sem Kol, 1 March 2016, ERN 01226313, A46.

<sup>1318</sup> **D114/39**, Written Record of Interview of Witness Moul Chhin, ERN 01079212-01079214, A2; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079219-01079220, A1-A3.

<sup>1319</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079230, A46, ERN 01079232, A53-A54; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001470-01001471, A6-A7, ERN 01001473, A22-A23; **D54/111**, Written Record of Interview of Sam Phin, 24 June 2014, ERN 01088487, A15; **D54/30.1**, DC-Cam Statement of Soem Ny, 22 June 2011, ERN 01070548 confirmed in **D54/32**, Written Record of Interview of Witness Soem Ny, 8 November 2013, ERN 00974919-00974920, A5, ERN 00974923, A20-A21, ERN 00974924, A28; See also **D1.3.13.13**, OCP Interview of Touch Souley, 16 August 2008, ERN 00217575 (indicating mostly Ex-Zone soldiers and some Division 164 soldiers).

<sup>1320</sup> **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001469, A1, ERN 01001472, A16; **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628189, A33, A35-A36; **D114/181**, Written Record of Interview of Witness Sem Kol, 1 March 2016, ERN 01226314, A47. See also **D54/65**, Written Record of Interview of Witness Din Chun, 24 February 2014, ERN 00981944, A31.

<sup>1321</sup> **D54/32**, Written Record of Interview of Witness Soem Ny, 8 November 2013, ERN 00974922, A15.

<sup>1322</sup> **D2/4**, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597440, A18.



stains and two rows of 10 leg shackles each in each of five separate cells which would in theory, support a number of 70 – 80; he saw no corpses in those shackles then.<sup>1323</sup> Another witness, Em Sun, states that he saw about 20 people working outside the pagoda,<sup>1324</sup> however, he contradicts himself by saying that he never went to the pagoda during the DK Regime and only heard that people were detained there.<sup>1325</sup> This does not represent reliable evidence. Moul Chhin, who was detained there for three days shortly before the end of the DK Regime, recalls being shackled along with around 20 other prisoners in the dining hall.<sup>1326</sup> While people were also detained in at least one of the monk houses, it is not possible to determine how many.<sup>1327</sup> One eye-witness states that he “*did not see many prisoners*”.<sup>1328</sup>

433. Other testimony about the conditions at the site contradicts the assumption that it was merely a transient place. Witnesses allege, for example, that:

- i. detainees were forced to work, and were shackled or chained by the ankle;<sup>1329</sup>
- ii. they were restrained, both day and night, or when they were not working, and most also had their hands tied behind their back, making sleeping and movement difficult, and causing limbs to become swollen. Shackles were sometimes

<sup>1323</sup> **D2/4**, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597441, A22-A27.

<sup>1324</sup> **D54/48**, Written Record of Interview of Witness Em Sun, 28 November 2013, ERN 00974963, A52.

<sup>1325</sup> **D54/46**, Written Record of Interview of Witness Em Sun, 26 November 2013, ERN 00974931, A14.

<sup>1326</sup> **D114/39**, Written Record of Interview of Witness Moul Chhin, ERN 01079212-01079213, A2; **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079220, A3. *See also* **D2/4**, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597442, A34; **D54/66**, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986327, A22; **D54/65**, Written Record of Interview of Witness Din Chun, 24 February 2014, ERN 00981940, A15, ERN 00981945, A37.

<sup>1327</sup> **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628188, A27, **D114/187**, Written Record of Interview of Witness Touch Soeurly, 14 March 2016, ERN 01442859, A28-A29, ERN 01442860, A34; **D2/22**, Site Identification Report, 29 December 2010, ERN 00634143. *See also* **D1.3.13.1**, OCP Interview of Boch Poy, 11 August 2008, ERN 00217557; **D2/4**, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597441-00597442, A21-A32. *See contra* **D54/65**, Written Record of Interview of Witness Din Chun, 24 February 2014, ERN 00981945, A37-A38; **D54/66**, Written record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986327, A22, A26.

<sup>1328</sup> **D114/187**, Written Record of Interview of Witness Touch Soeurly, 14 March 2016, ERN 01442860, A31.

<sup>1329</sup> **D54/48**, Written Record of Interview of Witness Em Sun, 28 November 2013, ERN 00974961, A44; **D114/217**, Written Record of Interview of Neak Khoem, 13 June 2016, ERN 01348466, A9, ERN 01348467, A17, ERN 01348468, A22; **D54/88**, Written Record of Interview of Witness Soem Ny, 6 May 2014, ERN 01055497, A4-A5, ERN 01055498, A8; **D54/30.1**, DC-Cam Statement of Soem Ny, 22 May 2011, ERN 01070547; **D54/32**, Written Record of Interview of Witness Soem Ny, 8 November 2013, ERN 00974920, A5, ERN 00974922, A18, ERN 00974924, A30.



removed for inmates to defecate and urinate, but detainees were mostly forced to do so at the very spot where they were shackled;<sup>1330</sup> and

- iii. detainees appeared frightened, had torn trousers due to their chains, they received only watery rice gruel mixed with potato leaves, or a very small amount of rice per day; they did not look “*normal*” but were apparently not emaciated.<sup>1331</sup>

434. This kind of description matches that of a longer-term detention facility, as far as the physical effects, especially of the malnutrition, are concerned, yet it cannot be excluded that the victims had suffered some of those deprivations already before they arrived at the site.

#### 5.10.4 Interrogation

435. Evidence of interrogation is limited. While Moul Chhin says he was told that he was sent to the pagoda for “*further interrogation*”, he does not mention having actually been interrogated.<sup>1332</sup> The only evidence intimating that **Meas Muth** himself was involved in interrogations is an uncorroborated DC-Cam statement and by itself unreliable.<sup>1333</sup> One OCP witness referred to the “*torture facility*”, located in the monastery,<sup>1334</sup> however, this was based on a visit in April 1979, and without providing further detail.

436. A former Battalion 386 soldier was told by former members of Battalion 450 that the pagoda was the site where people were “*detained and interrogated*” and that during the “*time of interrogation and torturing*”, female prisoners were stripped and put inside

<sup>1330</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079220, A3, ERN 01079229, A39-A41, ERN 01079231, A49, A51-A52, ERN 01079232-01079233, A56-A57. *See also* **D54/88**, Written Record of Interview of Witness Soem Ny, 6 May 2014, ERN 01055497, A5; **D54/32**, Written Record of Interview of Witness Soem Ny, 8 November 2013, ERN 00974919-00974920, A5; **D1.3.13.8**, OCP Interview of Pen Sarin, 13 August 2008, ERN 00217562, *not corrected in D2/7*, Written Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607255.

<sup>1331</sup> **D54/32**, Written Record of Interview of Witness Soem Ny, 8 November 2013, ERN 00974919, A5, ERN 00974922, A13-A14, A18, ERN 00974924, A30; **D114/31**, Written Record of Interview of Witness Moul Chin, 17 December 2014, ERN 01056679, A162. *See also* **D2/15**, Written Record of Interview of Witness Touch Soeuli, 10 November 2010, ERN 00628189, A31.

<sup>1332</sup> **D114/40**, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079229-01079230, A41-A43, ERN 01079231, A49, A51.

<sup>1333</sup> **D54/30.1**, DC-Cam Statement of Soem Ny, 22 June 2011, ERN 01070558.

<sup>1334</sup> **D1.3.13.8**, OCP Interview of Pen Sarin, 13 August 2008, ERN 00217562, *not corrected in D2/7*, Record of Interview of Witness Pen Sarin, 26 August 2010, ERN 00607255.



water jars containing leeches.<sup>1335</sup> This is, however, uncorroborated hearsay the reliability of which is not sufficiently bolstered by other factors, and the mere presence of corpses in water jars attested to by witnesses who entered the site in mid-1979 does not support the interrogation aspect.<sup>1336</sup>

- i. it remains unclear if these corpses were women and whether they were still clothed or not; and
- ii. even if they were, there is no link from the presence of corpses to the question of whether the victims had been interrogated before.

### 5.10.5 *Killings*

437. There is no eye-witness evidence of killings at the site during DK. The incident of the shooting of the commander of Battalion 386 outside the compound mentioned above is based on hearsay. Two witnesses claim that at the south-eastern upper section of the site there were 20 to 30 water jars and gasoline drums that each contained one to three decomposed bodies.<sup>1337</sup>

438. Soem Ny, who was cropping vegetables near the compound at the time, claims to have walked to the northern and eastern areas of the site in 1976 and 1977 but did not recall seeing any graves.<sup>1338</sup>

439. From mid-1979 onwards, witnesses discovered decaying corpses, skeletons and human bones across the site and across the road behind the pagoda; the bodies were decomposed, yet they emitted a pungent smell, suggesting that the persons had died not too long ago. This does not quite match the fact that about five to six months would have elapsed by then since the end of DK and suggests that the deaths could not have

<sup>1335</sup> **D54/101**, Written Record of Interview of Witness Ek Ny, 2 April 2014, ERN 01001465-01001466, A10-A12; **D54/102**, Written Record of Interview of Witness Ek Ny, 3 April 2014, ERN 01001469, A1, ERN 01001470-01001471, A6, ERN 01001472, A16.

<sup>1336</sup> **D54/65**, Written Record of Interview of Witness Din Chun, 24 February 2014, ERN 00981940, A15; **D54/66**, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986324-00986325, A8. See also **D54/88**, Written Record of Interview of Witness Soem Ny, 6 May 2014, ERN 01055497, A3.

<sup>1337</sup> **D54/65**, Written Record of Interview of Witness Din Chun, 24 February 2014, ERN 00981940, A15; **D54/66**, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986325, A8; **D11/130**, Site Identification Report, 15 December 2014, ERN 01049175, ERN 01049180.

<sup>1338</sup> **D54/32**, Written Record of Interview of Witness Soem Ny, 8 November 2013, ERN 00974922, A1, ERN 00974924, A29.



been recent, if they were based on killings under the DK Regime.<sup>1339</sup> However, there is no indication that any large scale killings took place there after 6 January 1979 when the Vietnamese arrived. There is some indication from these witnesses that the corpses showed signs of having been tied,<sup>1340</sup> but none about whether they were Thai, Vietnamese or Khmer.

440. There is also inconsistency in the evidence surrounding bodies found on the ground, as opposed to in graves, at the site in mid-1979. Two witnesses note that further to bodies found in graves, there were bones and decomposed bodies lying on the ground in the dining hall, and on the slope from the top of the hill.<sup>1341</sup> One reports that he saw about 100 decayed bodies shackled in the dining hall when he visited with another witness.<sup>1342</sup> However that latter witness made no mention of finding bodies on the ground in his own testimony.<sup>1343</sup> The number of 100 people shackled in the dining hall is also doubtful: Moul Chhin states that he was detained with only 20 other prisoners and released two days before the Vietnamese came to the area in 1979.<sup>1344</sup> It seems highly unlikely that another 80 prisoners would have arrived and been detained in the following days, instead of being killed immediately, when the Vietnamese were almost at the gates.

441. Witnesses testify that between 400 and 1,000 bodies (or bones thereof) were found in the months following DK; some were skulls that had cloth on them, while some were

<sup>1339</sup> Across the site: D54/65, Written Record of Interview of Witness Din Chun, 24 February 2014, ERN 00981940-00981941, A15, ERN 00981942, A25; D54/66, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986324-00986326, A5, A8, A12-A14, ERN 00986327, A24, A28; D114/30, Site Identification Report, 15 December 2014, ERN 01049176. *See also* D2/4, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597440, A17-A18, ERN 00597442, A36-A39. Across the road from Wat Enta Nhien: D54/64, Written Record of Interview of Witness Din Chun, 22 February 2014, ERN 00981933, A2, A5; D54/66, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986323, A1, ERN 00986324, A4.

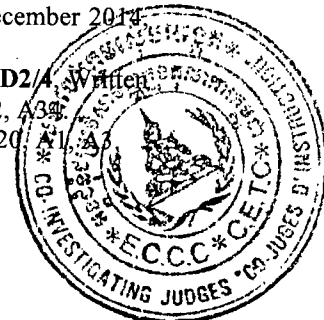
<sup>1340</sup> D54/66, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986325, Q&A11, A13-A14, ERN 00986326, A17-A18; D54/65, Written Record of Interview of Witness Din Chun, 24 February 2014, ERN 00981940, A15, ERN 00981941-00981942, A19-A20, ERN 00981943, A26-A28, ERN 00981944, A30; *see also* D2/4, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597443, A39 and D2/22, Site Identification Report, 29 December 2010, ERN 00634155.

<sup>1341</sup> D54/65, Written Record of Interview of Din Chun, 22 February 2014, ERN 00981940-00981941, A15; D54/66, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986324-00986325, A8, A12-A13, ERN 00986327-00986328, A22-A24, A28-A30.

<sup>1342</sup> D54/66, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986327, A24-A25, A28. *See also* regarding the dining hall size capacity: D114/30, Site Identification Report, 15 December 2014, ERN 01049177.

<sup>1343</sup> D1.3.13.1, OCP Interview of Boch Poy, 11 August 2008, ERN 00217557, *corrected to July in D2/4*, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597438, A1-A2, ERN 00597442, A39.

<sup>1344</sup> D114/40, Written Record of Interview of Witness Moul Chhin, 29 January 2015, ERN 01079220.





complete bodies with their arms tied behind their back.<sup>1345</sup> The accuracy of the body count is questionable if, as the evidence seems to indicate, they did not find only skulls to make up that number, yet it allows the conclusion that hundreds of bodies were found. Further evidence that between 1980 and 1982, around 200 bodies were exhumed from a lemon plantation in the compound 100 metres east of the pagoda, many of them with their wrists and ankles tied with nylon string, does not support in and of itself the conclusion that these corpses were from the pagoda compound.<sup>1346</sup> Two witnesses suggest that at least some of these corpses were from the DK period.<sup>1347</sup> However, in the absence of any evidence of killings on a grand scale taking place there after the arrival of the Vietnamese, it is reasonable to conclude that the corpses were indeed from the DK period.

442. In sum, while there is evidence that on balance supports the killing of hundreds of persons at the site, the question of who they were, why they were detained, how many and for how long cannot be answered satisfactorily. There is, however, sufficient evidence of the treatment, and conditions of detention, of those who were detained. The evidence also allows the calculation of a minimum number of victims killed of **400**, based on 200 from the exhumations in the lemon plantation from 1980 – 1982, and the hundreds of corpses found lying on the ground and in shallow graves in 1979.

#### 5.10.6 *Visits by Meas Muth*

443. There is no reliable evidence to conclude that **Meas Muth** visited the site.

### 5.11 Forced marriage in Kampong Som

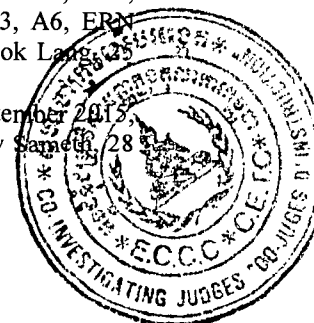
444. Division 164 personnel arranged weddings in Kampong Som, which were conducted devoid of Buddhist tradition, and often on a group basis,<sup>1348</sup> the evidence indicating that

<sup>1345</sup> **D54/66**, Written Record of Interview of Witness Nuon Yoem, 25 February 2014, ERN 00986325, A13, ERN 00986326, A17-A18; **D54/65**, Written Record of Interview of Witness Din Chun, 24 February 2014, ERN 00981940, A15, ERN 00981941-00981942, A19-A20, ERN 00981943, A26-A28, ERN 00981944, A30.

<sup>1346</sup> **D1.3.13.1**, OCP Interview of Boch Koy, 20 November 2008, ERN 00217558, as confirmed in **D2/4**, Written Record of Interview of Witness Pauch Koy, 28 July 2010, ERN 00597438, A2, ERN 00597442, A36-A39. See also **D2/22**, Site Identification Report, 29 December 2010, ERN 00634143, ERN 00634150-00634151, ERN 00634154, ERN 00634171-00634172 (indicating that the lemon orchard within the pagoda compound).

<sup>1347</sup> **D54/65**, Written Record of Interview of Witness Din Chun, 24 February 2014, ERN 00981942, A25; **D114/111**, Written Record of Interview of Witness Sok Lang, 25 August 2015, ERN 01170513, A6, ERN 01170514-01170515, A19-A22. See contra **D114/111**, Written Record of Interview of Witness Sok Lang, 25 August 2015, ERN 01170515, A20.

<sup>1348</sup> Regarding Division 164: **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170547, A228, A230-A231, A234; **D114/78**, Written Record of Interview of Witness Svay Samea, 28



the Marriage Policy was widely implemented in Kampong Som.<sup>1349</sup> For instance, the Anti-Submarine Section Chairman states that he intended to have all members of his unit marry, and he succeeded with “many” of them,<sup>1350</sup> and a high number of women from Battalion 167, Division 164’s women’s battalion, were married between 1975 and 1979.<sup>1351</sup>

445. In some instances, soldiers’ opinions regarding spouses were sought, and women were transferred to soldiers for selection.<sup>1352</sup> Hearsay evidence further indicates that the transfer of women for the purposes of marriage occurred, although it is not established that in this instance the marriages took place.<sup>1353</sup> Soldiers’ requests to marry were not always accepted.<sup>1354</sup>

446. Multiple eye-witnesses attest to marriages occurring without consent and in coercive circumstances reflecting those across DK<sup>1355</sup> throughout Kampong Som Region from at

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May 2015, ERN 01115933, A22, A25. Regarding Buddhist tradition: **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076791, A267-A268; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170547, A228-A232, A235; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A2-A6, ERN 01057622-01057623, A34-A37; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074432, A17, ERN 01074447, A124-A125, ERN 0107448, A130, ERN 01074452, A161, ERN 01074454-01074455, A172-A181; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170567-01170568, A248-A257, ERN 01170569, A273-A277, ERN 01170570, A296-A298; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148781, A183-185. Regarding group weddings: **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A2-A5; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170547, A228, A230-A232; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235044, A29; **D234/2.1.141**, Transcript of Hearing on the Substance in Case 002 [Mak Chhoeun], 12 December 2016, ERN 01391194, lines 9-25, ERN 01391195, lines 1-22.

<sup>1349</sup> See the evidence set out in paras 446-452. See also, **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A22-A26, A30, ERN 01115934, A32, A34 stating that the Marriage Policy was “generally applied to everyone”. See also **D114/95**, Written Record of Interview of Witness Yoem Sroeng, 27 July 2015, ERN 01137204, A148, ERN 01137208, A183, ERN 01137215-01137216, A231-A241, ERN 01137216-01137217, A245-A251 reporting that weddings featuring Division 164 soldiers and for up to seven couples occurred every one to three months. However, the fact that the witness hardly spent time on the mainland renders his testimony unreliable on this point.

<sup>1350</sup> **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148766-01148767, A60-A67, ERN 01148785, A211.

<sup>1351</sup> **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128177, A14, A17, ERN 01228182, A45-A49.

<sup>1352</sup> **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170547, A228, A230-A231, A234, ERN 01170548, A236-A237. See also **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A2-A3, ERN 01057620, A17, ERN 01057622, A29.

<sup>1353</sup> **D114/36.1.64**, Written Record of Interview of Witness Seng Ol, 2 December 2009, ERN 00413904, A2, ERN 00413905, A6, ERN 00413906, A20, ERN 00413907, A22-A29; **D114/91**, Written Record of Interview of Witness Seng Ol, 13 July 2015, ERN 01147528, A137-A138, ERN 01147533-01147534, A173-A178, ERN 01147536, A193-A195, ERN 01147537-01147537, A201, A206-A211, ERN 01147539, A220.

<sup>1354</sup> **D114/146**, Written Record of Interview of Witness Uy Nhoek, 14 December 2015, ERN 01185628-01185629, A38-A41.

<sup>1355</sup> See *Forced marriage of civilians and members of the RAK*, paras 202-204.



least late 1975 or early 1976, until at least late 1978: in Kampong Som town itself, Kang Keng, Stung Hav, and Ou Oknha Heng.<sup>1356</sup> The number of couples married at those ceremonies ranged from one through to 71.<sup>1357</sup>

447. All such weddings involved military or civilian CPK officials, who matched couples, instructed spouses to marry or attend ‘meetings’, and/or presided over or attended ceremonies.<sup>1358</sup>

448. Some women were forced to marry demobilised, disabled, or active Division 164 soldiers or sailors.<sup>1359</sup>

<sup>1356</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076790-01076791, A266-A268, ERN 01076793, A283-A286, ERN 01076794, A293-A295, A298, ERN 01076795, A299; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618-01057619, A2-A10, A13-A14, ERN 01057620-01057621, A20-A22, A25, ERN 01057622, A28-A29, A32; **D54/117**, Written Record of Interview of Witness Meas Saran, 21 August 2014, ERN 01063204, A29-A33; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170567-01170568, A248-A257, A262-A265, ERN 01170569, A273-A274, ERN 01170574, A351-A364; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A22-A26, A30, ERN 01115934, A32; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173816, A67-A69, ERN 01173818, A84-A87, ERN 01173819, A91-A94, ERN 01173820, A105-A107, ERN 01173823, A128; **D114/304**, Written Record of Interview of Witness Vun Bunna, 7 March 2017, ERN 01505880, A66-A67, ERN 01505881, A81-A82, ERN 01505882, A86-A88, ERN 01505883, A95-A97, ERN 01505884, A100-A101; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148766, A60-A63, ERN 01148778, A160-A161, A165, ERN 01148779, A171-A172, ERN 01148780, A177, ERN 01148781, A185, ERN 01148782, A188.

<sup>1357</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076790-01076791, A266-A268; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A2-A5; **D54/117**, Written Record of Interview of Witness Meas Saran, 21 August 2014, ERN 01063204, A29-A33; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170569, A271, A275-A277; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A30; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173818, A84-A87, ERN 01173820, A104; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148778, A163.

<sup>1358</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076790-01076791, A266-A269, ERN 01076793, A283-A286, ERN 01076794, A293-A295, A298, ERN 01076795, A299-A304; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A2-A3, A6-A8; **D54/117**, Written Record of Interview of Witness Meas Saran, 21 August 2014, ERN 01063204, A29-A30; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170567-01170568, A248-A260, A262-A264, ERN 01170569, A273, A278, ERN 01170570, A287-A291; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A22, A24-A26, A29-A30, ERN 01115934, A32; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173817, A70-A76, ERN 01173821-01173823, A114-A129, A134; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148778, A162, A164-A165, ERN 01148779, A170, A172, ERN 01148780, A174-A176; **D114/304**, Written Record of Interview of Witness Vun Bunna, 7 March 2017, ERN 01505884, A107. *See also* the inconclusive accounts of a couple on whether their wedding took place at **Meas Muth**’s house: **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148780, A177, A180-A181; **D54/29**, Written Record of Interview of Witness Liet Lan, 24 October 2013, ERN 00976572-00976573, A3; **D114/304**, Written Record of Interview of Witness Vun Bunna, 7 March 2017, ERN 01505884, A100. In any event, in all of these accounts there is no evidence that **Meas Muth** was present.

<sup>1359</sup> **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A16, ERN 01057619-01057620, A16-A17, A20, ERN 01057622, A32; **D54/117**, Written Record of Interview of



449. Reflecting the situation across DK,<sup>1360</sup> in Kampong Som a general atmosphere of fear pervaded regarding the consequences of refusing to marry: while some married consensually or refused to marry without consequences, most people did not dare refuse, some who did were threatened and others were punished.<sup>1361</sup> Objections did not prevent marriage announcements.<sup>1362</sup>
450. While eye-witness accounts of forced marriage in Kampong Som are not particularly numerous, considering (i) the coercive consequences and circumstances that prevailed in the implementation of the Marriage Policy both DK-wide and in Kampong Som; (ii) the widespread implementation of the Marriage Policy in Kampong Som; and (iii) that

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Witness Meas Saran, 21 August 2014, ERN 01063204, A32; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170567-01170568, A248-A257, A262-A264, A267-A269, ERN 01170569, A273; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173821, A110-A111, ERN 01173822, A122-A123; **D114/304**, Written Record of Interview of Witness Vun Bunna, 7 March 2017, ERN 01505886, A126.

<sup>1360</sup> See *Forced marriage of civilians and members of the RAK*, para. 204.

<sup>1361</sup> Feared to refuse, could not refuse, were threatened or punished: **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076794, A293-A295, ERN 01076795, A299; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057618, A2, ERN 01057622, A32; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170567-01170568, A248-A257, A262-A264; **D114/78**, Written Record of Interview of Witness Svay Sameth, 28 May 2015, ERN 01115933, A22, A24, ERN 01115934, A32; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173816, A68-A70, ERN 01173817, A74-A75, ERN 01173818, A84-A87, ERN 01173819, A90-A94, ERN 01173820, A105-A107, ERN 01173823, A128; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128177, A14, A17, ERN 01228182, A45-A46; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074432, A17, ERN 01074447, A124-A125, ERN 0107448, A130, ERN 01074451, A155, ERN 01074452, A161-A162; **D54/38.1**, DC-Cam Statement of Lon Seng, 26 February 2012, ERN 01072382, ERN 01072396, *as confirmed in **D54/38***, Written Record of Interview of Witness Lon Seng, 4 December 2013, ERN 00976871-00976873, A1-A8; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148786, A219; **D54/29**, Written Record of Interview of Witness Liet Lan, 24 October 2013, ERN 00976572-00976574, A3-A6. Refusal without consequence: **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01228182, A45; **D54/38.1**, DC-Cam Statement of Lon Seng, 26 February 2012, ERN 01072396, *as confirmed in **D54/38***, Written Record of Interview of Witness Lon Seng, 4 December 2013, ERN 00976871-00976873, A1-A8; *see also **D114/38***, Written Record of Interview of Witness Chea [Chum] Roem, 29 January 2015, ERN 01067839, A89-A93, ERN 01067841, A106-A107, ERN 01067842, A114-A115, ERN 01067843, A117-A122, ERN 01067844, A124-A126, ERN 01067845, A130, A135; **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170547-01170548, A228, A236-A239, A241. Consensual marriage: **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074452, A161; **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184817, A20-A21, ERN 01184834-01184835, A135-A137; **D59/1/1.7a**, DC-Cam Statement of Mak Chhoeun, 18 May 2007, ERN 00969949-00969950, *as confirmed in **D114/17***, Written Record of Interview of Witness Mak Chhoeun, 20 October 2014, ERN 01040416-01040417, A1-A6, **D234/2.1.141**, Transcript of Hearing on the Substance in Case 002 [Mak Chhoeun], 12 December 2016, ERN 01391194, lines 9-25, ERN 01391195, lines 1-22. Requests to marry: **D114/139**, Written Record of Interview of Witness Nguon Lay, 16 November 2015, ERN 01184834-01184835, A135-A137; **D114/83**, Written Record of Interview of Witness Sok Neang, 11 June 2015, ERN 01128182, A46; **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235044, A29; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148784, A206, ERN 01148785, A215, ERN 01148786, A218; **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057622, A29.

<sup>1362</sup> **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148778, A161-A162, ERN 01148779, A168-A172, ERN 01148781-01148782, A185-A186, A188.



at least some marriages that occurred in Kampong Som were forced, it is more than likely that many more forced marriages took place in Kampong Som than those for which eye-witness accounts are available. It is, however, not possible, on the available evidence, to provide even a conservative estimate of the number of forced marriages that occurred in Kampong Som.

451. Again, reflecting the situation across DK,<sup>1363</sup> newlyweds in Kampong Som were typically made to live together for several days, under the expectation or order that they would have sexual intercourse.<sup>1364</sup> During this period, surveillance of couples by CPK personnel was common, which many witnesses attribute to ensuring that couples consummated their marriage or “got along”.<sup>1365</sup> Several witnesses who married against their will attest to initially refusing or being afraid to consummate the marriage, before later relenting or agreeing, or to having sexual intercourse against their wishes.<sup>1366</sup>
452. With newlyweds thereafter invariably living in separate locations (in Pou Thoeung Cooperative, the wives of soldiers lived together),<sup>1367</sup> husbands visited their spouses in intervals ranging from only a few to 10 days.<sup>1368</sup> Despite the goal of the Marriage

<sup>1363</sup> See *Forced marriage of civilians and members of the RAK*, para. 203.

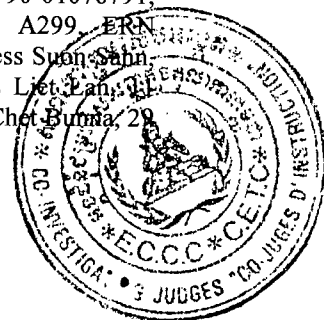
<sup>1364</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01067832, A27, ERN 01076790-01076791, A266-A268, ERN 01076793, A287-A288, ERN 01076794, A293-A295, ERN 01076794-01076795, A299, A306-A312; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170568, A265, ERN 011705569, A272, ERN 01170571, A304-A308; **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074432, A17, ERN 01074447, A124-A125, ERN 0107448, A130, ERN 01074452, A161-A163, ERN 01074457, A194-A197.

<sup>1365</sup> **D114/33**, Written Record of Interview of Witness Hem Ang, 24 December 2014, ERN 01074432, A17, ERN 01074447, A124-A125, ERN 0107448, A130, ERN 01074452, A161-A163; ERN 01074457, A194-A197; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173824, A141, A144, ERN 01173825, A151; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148782-01148782, A192-A201.

<sup>1366</sup> **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057624, A41-A43, A46, A48, ERN 01057625, A49-A57; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173824, A136, A141, A144, ERN 01173825, A146-A147, A151, A153; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148782-01148783, A192-A201.

<sup>1367</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076772, A108, A110, ERN 01076776, A145.

<sup>1368</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076790-01076791, A266-A268, ERN 01076793, A287-A288, ERN 01076794, A293-A295, ERN 01076794, A299, ERN 01076796, A312, ERN 01076797, A322-A326; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173825, A154; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148786, A223. See also **D114/66**, Written Record of Interview of Witness Chet Bunna, 29 April 2015, ERN 01235044, A29.



Policy being to increase the population,<sup>1369</sup> only one witness refers to a *requirement* to visit regularly after the wedding.<sup>1370</sup>

453. While the evidence of direct sexual violation allows inferences of pain and suffering both physical and mental, there is limited testimony on the level of pain and suffering caused by the implementation of the Marriage Policy in Kampong Som. Witnesses report feeling pain or disheartenment at being married without their family being told, disappointment at the wedding itself, unhappiness at being separated after the wedding, and anger at not being told earlier.<sup>1371</sup>
454. Many couples who married during the DK period later separated.<sup>1372</sup> Studies show that some victims of forced marriage feel trapped in unhappy relationships, live with regret and sorrow at not having been able to choose their spouse or marry traditionally, while some victims of sexual violence continue to suffer from physical injury and pain as well as psychological problems, including anger, grief, fear, nightmares, depression and suicidal thoughts.<sup>1373</sup>
455. While **Meas Muth** was directly involved in the dissemination of the Marriage Policy in Kampong Som, there is no evidence that he himself conducted weddings or attended ceremonies.

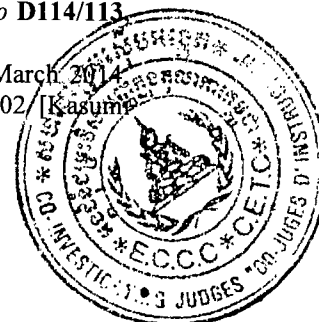
<sup>1369</sup> See *Forced marriage of civilians and members of the RAK*, para. 200.

<sup>1370</sup> **D114/53**, Written Record of Interview of Witness Uk Sok, 25 February 2015, ERN 01076797, A322-A323.

<sup>1371</sup> **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057633, A117; **D114/117**, Written Record of Interview of Witness Nav Sokhan, 7 September 2015, ERN 01170565, A219-A226, ERN 01170567-01170570, A248-A297, ERN 01170571, A301, ERN 01170572, A316, ERN 01170574, A351-A364; **D114/134**, Written Record of Interview of Witness Suon Sann, 19 October 2015, ERN 01173820, A106-A107; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148779, A171.

<sup>1372</sup> **D114/32**, Written Record of Interview of Witness Meas Saran, 29 December 2014, ERN 01057630, A96; **D54/29**, Written Record of Interview of Witness Liet Lan, 24 October 2013, ERN 00976574, A9; **D114/103**, Written Record of Interview of Witness Liet Lan, 11 August 2015, ERN 01148788, A241; **D114/304**, Written Record of Interview of Witness Vun Bunna, 7 March 2017, ERN 01505889, A147-A148. See also **D114/113**, Written Record of Interview of Witness Koem Men, 3 September 2015, ERN 01170547, A226.

<sup>1373</sup> **D114/297.1.16**, Sexual violence against ethnic minorities during the Khmer Rouge regime, March 2014, ERN 0099246-00992249; **D114/297.1.29**, Transcript of Hearing on the Substance in Case 002/02/[Kasum Nakagawa], 13 September 2016, ERN 01361832-01361837.



## 6 LEGAL FINDINGS ON PERSONAL JURISDICTION

456. The ECCC have personal jurisdiction over **Meas Muth** as one of the persons most responsible for the crimes committed during the DK Regime.

457. He was a Khmer Rouge official during the time of the Court's temporal jurisdiction and during the period when the alleged offences attributed to him occurred.

458. As set out in the *Applicable Law*,<sup>1374</sup> the CIJs do not view an *ex-ante* 'negotiated' and closed number of suspects as a proper interpretation of the negotiating history of the ECCC laws.

459. While **Meas Muth** was not a senior leader as such, he was very close to the senior leadership level due to:

- i. his position as Commander of Division 164 (the largest RAK division), which entailed being Commander of the DK Navy, one of the three branches of the DK Armed Forces;
- ii. his responsibility for the territorial waters of DK;
- iii. his position as a reserve member of the General Staff Committee and as one of Son Sen's deputies; and
- iv. his position, from late 1978, as a reserve member of the Central Committee.

460. **Meas Muth** is among those most responsible because of the combination of his rank and scope of authority in the hierarchy of the DK, and based on the character and magnitude of his crimes. This finding bears comparison with other charged or convicted persons. His position combined with the nature and impact of his actions clearly surpass those of Ao An, Im Chaem, and Kaing Guak Eav alias Duch.<sup>1375</sup>

### 6.1 Position in the DK hierarchy

461. **Meas Muth** held an elevated role in the DK hierarchy, working at the highest level of the DK military command structure below the national political leadership. He was discharging tasks and duties at a significantly higher level than Ao An, who was also

<sup>1374</sup> See *Applicable Law*, para. 39.

<sup>1375</sup> See regarding Duch, **Case File No. 004/2-D360**, [Redacted] Closing Order (Indictment), 16 August 2018, para. 699.



found to have been one of those most responsible.<sup>1376</sup> He was called upon to implement purges of the RAK beyond his main theatre of operations in the Kampong Som Region and his duties as the Commander of the DK Navy.

## 6.2 Nature and gravity of the crimes attributed

462. In addition to **Meas Muth**'s elevated formal position, the gravity of his actions and the severity of their impact, as described above in detail, justify the conclusion that he was one of the most responsible persons.
463. The main charges that must be levelled at **Meas Muth**, and which alone put him solidly within the bracket of personal jurisdiction, are those of the genocide of the Vietnamese as well as the extermination of the Thai captured by the DK Navy in the waters and islands off the DK coast.
464. **Meas Muth** turned these waters into a giant trap for anyone who entered them. While the established minimum numbers of victims range in the thousands – at a very conservative calculation, a minimum of 1,200 Thai and 3,276 Vietnamese were killed during the DK Navy's capture operations under **Meas Muth**'s reign – the reality was very likely much grimmer. The casualty numbers, especially regarding the Vietnamese, only depended on how many Thai and Vietnamese who entered the waters were captured, in other words, had more been captured, more would have been killed. **Meas Muth** did not encourage the exercise of restraint by his subordinates, quite the contrary: his orders to kill were open-ended and it was only by chance that some of the captured Thai evaded death by being traded for commodities.
465. The grisly manner of the disposal of their bodies, and the utter contempt for the human dignity of the victims' remains, through their use as fertiliser for durian trees as ordered by **Meas Muth** is reminiscent of the commonly known and historically settled industrial killing practices in the Nazi concentration camps, where victim's bodies were used to make soap, their hair was collected to make wigs, and their tooth fillings collected and melted down into ingots of precious metals. This kind of behaviour

<sup>1376</sup> Case File No. 004/2-D360, [Redacted] Closing Order (Indictment), 16 August 2018, para. 699.





surpasses the ‘normal’ high level of cruelty of the DK Regime, as alluded to by both CIJs in the Case 004/1 *Closing Order (Reasons)*.<sup>1377</sup>

466. **Meas Muth** is, however, also responsible for a number of other crimes against humanity, war crimes, and the domestic crime of premeditated homicide apart from the targeting of the Thai and Vietnamese as set out in detail in the preceding sections, in particular his major role in the purges of the RAK Divisions 164, 502, 310 and 117, and the oversight and organisation of worksites in Kampong Som.
467. The minimum number of victims killed in the RAK purges that can be attributed to **Meas Muth** is calculated as follows, based both on referrals to S-21 and killings *in situ*:

Division 164	719
Division 502	478
Division 310	928
Division 117	27
<b>Total</b>	<b>2,152</b>

468. While the number of victims killed at the Kampong Som crime sites cannot be accurately distinguished, the total minimum number is 845 (400 at Wat Enta Nhien Security Center, 15 at Stung Hav, and 430 in the Ream Area sites). While the minimum number of victims of forced labour are 2,000 at the Ream Area sites and 100 at any given time at Stung Hav, **Meas Muth** himself reported that his overall workforce in Kampong Som numbered 17,000 people. In the context of personal jurisdiction, it is permissible to use this full number as an indicator of **Meas Muth**'s overall reach and position. Given that the evidence supports the conclusion that of those 17,000 only a small minority would have been active soldiers of Division 164, beyond the 400 disabled soldiers and children and the 176 soldiers mentioned above, but allowing nonetheless for a generous larger precautionary deduction of 2,000 soldiers from that number, a minimum of 15,000 still remains of people who, based on inference from the totality of the crime site evidence, will have been subjected to forced labour under appalling conditions.

### 6.3 Conclusion

469. In sum, both the position and conduct of **Meas Muth** mark him out as a major player in the DK structure and as a willing and driven participant in the brutal implementation of its criminal and inhuman policies.

<sup>1377</sup> Case File No. 004/1-D308/3, [Redacted] *Closing Order (Reasons)*, 10 July 2017, para. 324.



## 7 LEGAL FINDINGS ON CRIMES

### 7.1 Chapeau elements of crimes against humanity

470. Between approximately late April 1975 and 6 January 1979, the CPK carried out an attack against the civilian population in the Kampong Som Region and in the territorial waters and islands off the coast of DK, as well as across zones in the ranks of the RAK, whose soldiers are regarded as civilians for the purpose of this indictment. The attack consisted of a number of main operational strands described below.
471. Firstly, the CPK implemented a policy to establish cooperatives and worksites throughout Cambodia and forcibly relocate the majority of the population to work on them. The ultimate objective was to transform Cambodia into an autarkic socialist state based on an agrarian economy. The CPK forced the civilian population to work without remuneration and under disastrous living and working conditions, which exposed workers to great physical and mental suffering. Many died from exhaustion, starvation, and disease. Others were executed for minor transgressions or other arbitrary reasons.
472. Secondly, in the case of the territorial waters and islands, the CPK followed a policy of capturing Vietnamese and Thai vessels and their crews/passengers with the intent to kill the crew members and passengers. There was no effort at exercising restraint; quite to the contrary, it was an open order to kill with the number of eventual victims left to fortuity of consequence. In the case of the Vietnamese, no exceptions were made because the latter were regarded as the historical arch-enemy of the Khmer and had to be eradicated merely for being Vietnamese, which included killing women, children, and the elderly. The captured Thai sometimes escaped being killed when they were traded to Thailand in return for goods and commodities. Nonetheless, a large number of Thai were killed based on the aforementioned policy.
473. The third facet of the CPK's attack on the civilian population in Kampong Som involved the re-education of 'bad elements' and killing of 'enemies' both inside and outside the CPK ranks. The CPK established sites which were used to identify, monitor, and re-educate or kill perceived enemies of DK. Anyone suspected of even minor wrongdoing or disloyalty was a potential target.
474. Fourthly, the CPK identified, targeted, and systematically purged particular categories of people perceived as potential threats to the DK Regime or to have views otherwise



incompatible with CPK doctrine. These included RAK soldiers, in this case especially from Divisions 164, 502, 310, and 117, people forcibly relocated from urban areas, former soldiers and other officials of Khmer Republic, and others perceived to be a threat to the CPK's goal to refashion Cambodian society.

475. The fifth aspect of the CPK's attack on the population in Kampong Som, as part of a nationwide policy, was the regulation of marriage in order to increase the population and build ideologically pure families. The CPK forced people to marry a spouse chosen by "*Angkar*" and, in many cases, compelled the couple to consummate their marriage.
476. The systematic nature of the attack is evident from its centralised planning, organisation, and implementation, involving all levels of the RAK and parts of the civilian administration. Furthermore, the widespread nature of the attack is reflected in its broad temporal and geographic scope, spanning different zones, as well as the vast number of victims killed and forced into labour. The attack was carried out on political grounds as the implementation of the CPK's wider political agenda.
477. By virtue of his position as Commander of the DK Navy, one of the three branches of the DK Armed Forces, and as reserve member of the General Staff and deputy to Son Sen, as well as his overall control of even the civilian administration in Kampong Som Autonomous Sector, **Meas Muth**, was a central participant in that widespread and systematic attack against the civilian population, which is supported by the fact that he was tasked with, and cooperated in, RAK purge operations even outside his own Division 164. Through regular meetings, site visits, and the CPK's rigorous reporting system, **Meas Muth** had full knowledge of the attack and that his acts were part of it.

## **7.2 Chapeau elements of grave breaches of the Geneva Conventions**

478. From at least mid-April 1975 until 6 January 1979, armed hostilities took place between DK and Vietnam, and from April 1975 until mid-1978, between DK and Thailand, each in the form of an international armed conflict. The fact that there were intermittent lulls in fighting as well as ultimately unsuccessful attempts to bring about cessation of the hostilities, does not detract from the fact that relevant to the crimes against the Thai and Vietnamese, as considered in this Closing Order, said international armed conflicts persisted, and that the crimes were committed as part of each. **Meas**



**Muth** as a military commander of the highest rank was aware of the conflicts and of the link of the listed crimes to each.

479. Any charges of Grave Breaches related to foreigners other than the Vietnamese and Thai were rescinded during the initial appearance of **Meas Muth** on 14 December 2015 and now fall under the overall residual termination order below.<sup>1378</sup>

### 7.3 Legal findings on crimes

480. A preliminary remark is apposite at this point: as far as the crimes against the Thai and Vietnamese are concerned, there is a wide potential for overlap regarding the victim numbers at each related crime site; they were all subsumed under the numbers in Sections 7.3.1 and 7.3.2 below.

#### 7.3.1 Killing of the Vietnamese by the DK Navy

481. Most crimes committed against the Vietnamese occurred in the waters and on the islands claimed by DK, and in the Kampong Som area, however a number were also committed at S-21, as set out below.

#### *Genocide*

482. Genocide was committed against the Vietnamese captured by the DK Navy in the waters and islands claimed by DK, by killing members of this distinct ethnic and national group protected by the Genocide Convention.
483. The DK Navy killed a conservative minimum of **3,276** Vietnamese.
484. The acts of genocide were carried out with the intent to destroy any and all Vietnamese captured in the waters and the islands claimed by DK. This finding of special intent is based on the extensive evidence of a CPK policy of elimination and the resulting pattern and scale of the killing of the Vietnamese.
485. The Vietnamese were specifically targeted because of their national and ethnic identity. This finding is bolstered by the evidence of CPK cadres expressly acknowledging that there was a specific discriminatory policy against the Vietnamese which ultimately entailed the aim of their physical elimination.

<sup>1378</sup> **D174**, *Written Record of Initial Appearance*, 14 December 2015, p. 10, at no. 6.



486. The totality of the evidence, the massive scale of the attack, the systematic manner of captures and executions, and the indiscriminate and comprehensive targeting of all Vietnamese, from within the context of the CPK administrative structure and its broader policy aims, make it apparent that during the operation of the DK Navy, the Vietnamese were targeted with the specific aim of physically destroying them.
487. The fact that there was no effort at exercising restraint and that the number of eventual victims was left entirely to fortuity of consequence, as well as the evidence pointing to a policy of making no exceptions because the Vietnamese were regarded as the historical arch-enemy of the Khmer and had to be eradicated merely for being Vietnamese, including killing women, children and the elderly, satisfies the requirement of an intent to destroy a substantial part of the targeted group. In other words, if one million Vietnamese had been captured by the DK Navy, one million would have been killed. It is not necessary in this context, beyond mere considerations of evidential inference, that the actual number of victims killed be substantial: the 'substantial part' criterion is part of the *mens rea*. Genocide begins with the first victim as long as an intent to kill a substantial part of the group can be shown. It is consequently not necessary, either, to determine whether a number of 3,276 victims would already constitute a substantial group and which comparator population it should be ranked against.

*Crime against humanity of extermination*

488. The same acts satisfy the elements of the crime against humanity of extermination, because the killings occurred, and were intended to occur, on a massive scale, as evidenced by the open-ended capture-and-kill policy and the number of at least **3,276** Vietnamese killed.

*Crime against humanity of murder*

In the waters and on the islands claimed by DK and in the Kampong Som area

489. Equally, the acts of genocide and extermination satisfy the elements of the crime against humanity of intentional murder.



At S-21 Security Centre

490. To the extent that the Vietnamese were transferred to S-21, the elements of intentional murder as a crime against humanity are satisfied. As soon as victims were transferred to S-21, their death was *de facto* pre-ordained, as no one was meant to be released from S-21. The only inference on the evidence is that the killings were intentional.

*Crime against humanity of imprisonment*At S-21 Security Centre

491. Persons transferred to S-21 were detained there against their will for different periods of time. Therefore to the extent that the Vietnamese were sent to S-21, the crime against humanity of imprisonment is made out.

*Crime against humanity of torture*At S-21 Security Centre

492. During their time at S-21, detainees were virtually invariably subjected to serious physical and mental mistreatment, intentionally and in order to extract confessions incriminating themselves and other persons, who were then arrested. The pain was thus inflicted in order to obtain information. The elements of the crime against humanity of torture are therefore satisfied in relation to the Vietnamese sent to S-21.

*Crime against humanity of other inhumane acts (inhumane treatment, enforced disappearance, and attacks on human dignity due to conditions of detention)*In the waters and on the islands claimed by DK and in the Kampong Som area

493. Killing the Vietnamese and intentionally disposing of their bodies without regard for the dignity of the victims, in a manner that concealed their fate from the circle of their families or friends constitutes the crime against humanity of other inhumane acts based on inhumane treatment and enforced disappearance.



At S-21 Security Centre

494. The conditions of detention at S-21 were appalling and extremely hard in all their aspects, to a degree that they violated basic demands of humane treatment of prisoners and robbed the inmates of their last vestiges of human dignity. The only reasonable conclusion from the evidence is that this was intentionally done. To the extent that the Vietnamese were transferred to S-21, the crime against humanity of other inhumane acts based on inhumane treatment and attacks on human dignity due to conditions of detention is made out.

*Crime against humanity of persecution on political and racial grounds through extermination, murder, and other inhumane acts*

495. By committing the offences of extermination and murder, as well as other inhumane acts, against the Vietnamese merely because of their ethnicity, the crime against humanity of persecution on racial grounds was committed.

496. However, there is no indication in the evidence of an additional aspect of persecution of the Vietnamese based on political grounds; the only political aspect could have been the fact that DK was at war with Vietnam, which is insufficient. This charge must be dismissed.

*Grave breaches of the Geneva Conventions – unlawful confinement of civilians, wilful killing, wilfully causing great suffering or serious injury to body or health, and torture*In the waters and on the islands claimed by DK and in the Kampong Som area

497. The intentional and planned capturing and killing of the Vietnamese in the waters and islands claimed by DK, as well as the transport of some of them to the mainland or the islands to be killed, during which time the victims would have been in stark fear of death, satisfies the elements of unlawful confinement of civilians, wilful killing and wilfully causing great suffering.



At S-21 Security Centre

498. The above paragraph applies equally to those transferred to S-21. Additionally, for the same reasons set out in paragraph 492, the elements of torture as a grave breach of the Geneva Conventions are satisfied.

*Premeditated homicide*

499. The killing of the Vietnamese also amounts to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

7.3.2 *Killing of the Thai by the DK Navy*

500. As with the Vietnamese, while most crimes committed against the Thai occurred in the waters and on the islands claimed by DK, and in the Kampong Som area, a number were also committed at S-21.

*Crime against humanity of extermination*

501. The crime against humanity of extermination was committed by the DK Navy against the Thai captured at sea.

502. The DK Navy, much like with the Vietnamese, was operating under the policy to capture all Thai vessels and their crews/passengers, and while exceptions from killing were occasionally made, a large number, i.e. at least **1,200**, were actually killed. The default position, as with the Vietnamese, was capture and kill.

503. The killings thus occurred, and were intended to occur, on a massive scale.

*Crime against humanity of murder*In the waters and on the islands claimed by DK and in the Kampong Som area

504. The same actions satisfy the elements of intentional murder as a crime against humanity.





At S-21 Security Centre

505. For the same reasons as regarding the Vietnamese, to the extent that the Thai were transferred to S-21, the crime against humanity of intentional murder is made out.

*Crime against humanity of imprisonment*At S-21 Security Centre

506. For the same reasons as regarding the Vietnamese, to the extent that the Thai were transferred to S-21, the crime against humanity of imprisonment is made out.

*Crime against humanity of torture*At S-21 Security Centre

507. For the same reasons as regarding the Vietnamese, to the extent that the Thai were transferred to S-21, the crime against humanity of torture is made out.

*Crime against humanity of other inhumane acts (inhumane treatment, enforced disappearance, and attacks on human dignity due to conditions of detention)*In the waters and on the islands claimed by DK and in the Kampong Som area

508. Killing the Thai and intentionally disposing of their bodies without regard for the dignity of the victims, in a manner that concealed their fate from the circle of their families or friends should ever know what happened to them, constitutes the crime against humanity of other inhumane acts based on inhumane treatment and enforced disappearance.

At S-21 Security Centre

509. For the same reasons as regarding the Vietnamese, to the extent that the Thai were transferred to S-21, the crime against humanity of other inhumane acts based on inhumane treatment and attacks on human dignity due to conditions of detention is made out.



*Crime against humanity of persecution on political and racial grounds through extermination, murder, and other inhumane acts*

510. By committing the offences of extermination and murder, as well as other inhumane acts, against the Thai merely because of their ethnicity, the crime against humanity of persecution on racial grounds was committed.

511. However, there is no indication in the evidence of an additional aspect of persecution of the Thai based on political grounds; the only political aspect could have been the fact that DK was at war with Thailand, which is insufficient. This charge must be dismissed.

*Grave breaches of the Geneva Conventions – unlawful confinement of civilians, wilful killing, wilfully causing great suffering or serious injury to body or health, and torture*

In the waters and on the islands claimed by DK and in the Kampong Som area

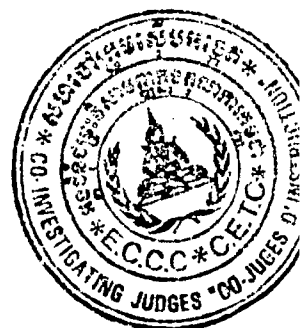
512. The intentional and planned capturing and killing of the Thai in the waters and islands claimed by DK, as well as the transport of some of them to the mainland or the islands to be killed, during which time the victims would have been in stark fear of death, satisfies the elements of unlawful confinement of civilians, wilful killing and wilfully causing great suffering.

At S-21 Security Centre

513. The above paragraph applies equally to those transferred to S-21. Additionally, for the same reasons set out in paragraphs 492 and 507, the elements of torture as a grave breach of the Geneva Conventions are satisfied.

*Premeditated homicide*

514. The killing of the Thai amounts to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.



### 7.3.3 Durian Plantation Killing Site

#### *Crime against humanity of extermination*

515. The evidence related to this crime site supports the conclusion that killings occurred there on a massive scale, as the site was used regularly for killings, mainly of Thai and Vietnamese, but also of local people. These killings were intentional. The crime against humanity of extermination has accordingly been made out.

#### *Crime against humanity of murder*

516. The same facts support the crime against humanity of murder.

#### *Crime against humanity of other inhumane acts (enforced disappearance)*

517. The same facts, in particular killing the victims and disposing of their bodies without regard for their human dignity and in a manner that concealed their fate from the circle of their families or friends, fulfils the elements of other inhumane acts based on enforced disappearance.

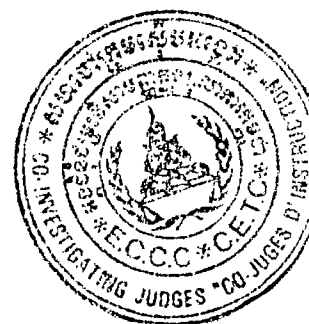
#### *Crime against humanity of persecution on political and racial grounds, through extermination, murder, and other inhumane acts*

518. The same facts support the crime against humanity of persecution on racial grounds through extermination, murder, and other inhumane acts, as far as the Thai and Vietnamese are concerned.

519. However, there is no sufficient indication that political discrimination was also a reason for the killings: the criterion does not apply to the Thai and Vietnamese, it is unclear why the local residents were killed there, and there is no evidence of other foreigners being killed at the Durian Plantation. This charge must be dismissed.

#### *Premeditated homicide*

520. The killing of persons at the Durian Plantation amounts to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.



#### 7.3.4 Purges of Divisions 164, 502, 310, and 117

521. As far as Division 164 is concerned, the evidence clearly supports the conclusion that members of that Division were purged within the area of direct responsibility of **Meas Muth**, and their treatment in this respect thus fully overlaps in substance with the charges at the individual crime sites and is therefore not referred to in this section. There is, however, also evidence regarding purge operations for members of Division 164 at other locations in Kampong Som.

#### *Crime against humanity of extermination*

##### At locations other than S-21 Security Centre

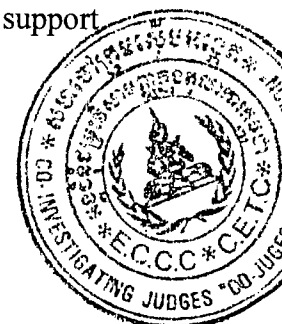
522. As set out above, the purge operation was meant as a large campaign to cleanse *inter alia* the named Divisions from all undesirable elements of all ranks, and in a vast percentage of cases this meant killing them. The killing at locations other than S-21 and other charged sites of 661 persons from Division 164, 135 persons from Division 502 and 23 persons from Division 117 taken together constitute killing on a massive scale. The only conclusion on the basis of the evidence is that these were intentionally carried out on a massive scale. The elements of the crime against humanity of extermination are thus fulfilled.

##### At S-21 Security Centre

523. As soon as victims were transferred to S-21, their death was *de facto* pre-ordained, as no one was meant to be released from S-21. The only inference on the evidence is that the killings that took place there were intentional. Killing at S-21 occurred as part of a well-oiled machine and, as evidenced by the number of Division 164, 502, 310, and 117 cadres killed there, on a massive scale. The only reasonable conclusion on the evidence is that killings were intended take place on a massive scale. The facts support an indictment for extermination as a crime against humanity.

#### *Crime against humanity of murder*

524. The same facts regarding killings both at S-21 Security Centre and elsewhere support the finding of the crime against humanity of intentional murder.



*Crime against humanity of imprisonment*At S-21 Security Centre

525. Persons transferred to S-21 were detained there against their will for different periods of time. Therefore the crime against humanity of imprisonment is made out in relation to members of Divisions 164, 502, 310, and 117 sent to S-21.

*Crime against humanity of torture*At S-21 Security Centre

526. During their time at S-21, detainees were virtually invariably subjected to serious physical and mental mistreatment, intentionally and in order to extract confessions incriminating themselves and other persons, who were then arrested. The pain was thus inflicted in order to obtain information. The elements of the crime against humanity of torture are therefore satisfied in relation to members of Divisions 164, 502, 310, and 117 sent to S-21.

*Crime against humanity of other inhumane acts (inhumane treatment, and attacks on human dignity due to conditions of detention)*At S-21 Security Centre

527. The conditions of detention at S-21 were appalling and extremely hard in all their aspects, to a degree that they violated basic demands of humane treatment of prisoners and robbed the inmates of their last vestiges of human dignity. The only reasonable conclusion from the evidence is that this was intentionally done. The crime against humanity of other inhumane acts based on inhumane treatment, and attacks on human dignity due to conditions of detention is made out in relation to members of Divisions 164, 502, 310, and 117 sent to S-21.



*Crime against humanity of persecution on political grounds, through extermination, murder, and, additionally at S-21 Security Centre, imprisonment, torture and other inhumane acts*

At locations other than S-21 Security Centre

528. Persons were killed on a massive scale pursuant to the purge primarily because they were deemed to be politically untrustworthy because of alleged dissident opinions and attitudes, such as sympathising with the former regime or foreign powers, or being disloyal to the CPK for other reasons. They were thus subjected to a serious violation of their fundamental human rights based on political discrimination. The elements of the crime against humanity of persecution on political grounds through extermination and murder are fulfilled in relation to those killed elsewhere than S-21.

At S-21 Security Centre

529. Persons were brought to S-21, and subsequently imprisoned, subjected to appalling conditions of detention, tortured, and killed, in the vast majority because they were deemed to be politically untrustworthy due to alleged dissident opinions and attitudes, such as sympathising with the former regime or foreign powers, or being disloyal to the CPK for other reasons. They were thus subjected to serious violations of their fundamental human rights based on political discrimination. The elements of the crime against humanity of persecution on political grounds are fulfilled in relation to members of Divisions 164, 502, 310, and 117 sent to S-21.

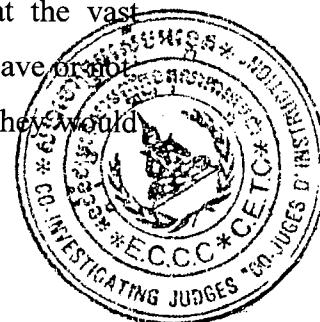
*Premeditated homicide*

530. The killing of purge victims amounts to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

7.3.5 Kang Keng and Bet Trang (Ream Area) Worksites

*Crime against humanity of enslavement*

531. While the strict regime related to freedom of movement of the workers may have had some limited exceptions at these sites, the fact nonetheless remains that the vast majority of persons at the sites were not in a position to choose whether to leave or not, and had neither control over their daily schedule nor any choice of work they would



engage in. Food and medical care was lamentably inadequate for the type of heavy labour required of the workers, and some died from starvation and/or sickness. Their treatment as mere cogs in the overall wheel of production at the different sub-sites supports the conclusion that they were treated like chattels, i.e. like the property of the CPK, and intentionally so, and hence that they were victims of the crime against humanity of enslavement.

*Crime against humanity of imprisonment*

532. The facts described under the previous heading, combined with the evidence regarding the length of work periods at both sites, as well as the testimony of some witnesses to the effect that they felt like they were being detained, support the conclusion that the victims were intentionally deprived of their personal liberty, and allow the finding of a crime against humanity of imprisonment.

*Crime against humanity of other inhumane acts (inhumane treatment, enforced disappearance, attacks on human dignity due to conditions of detention, and forced labour)*

533. These same facts and the evidence that workers (regularly) disappeared from the worksites after being arrested by DK cadres, never to return or to be heard from again, support the finding of the crime against humanity of other inhumane acts based on inhumane treatment, enforced disappearances, attacks on human dignity due to conditions of detention, and forced labour.

*Crime against humanity of persecution on political and racial grounds, through enslavement, imprisonment and other inhumane acts*

534. The evidence supports a finding of the crime against humanity of persecution on political grounds, because the majority of persons working at the sites, apart from active members of Division 164, had been deemed politically unreliable and disloyal to the CPK and hence transferred to those sites. Nor is there any doubt that this was done intentionally.

535. However, there is no evidence that any targeting occurred on racial grounds or that any foreigners were involved; to that extent, the charge must be dismissed.



### 7.3.6 Stung Hav Worksites

#### *Crime against humanity of murder*

536. Although the number of casualties according to the available evidence is relatively low, killings did happen and were based on the overall CPK policy of crushing dissent and non-compliance. These killings were invariably intentional. There is, however, no clear evidence regarding deaths occurring from overwork or exhaustion. These facts support the crime against humanity of murder.

#### *Crime against humanity of enslavement*

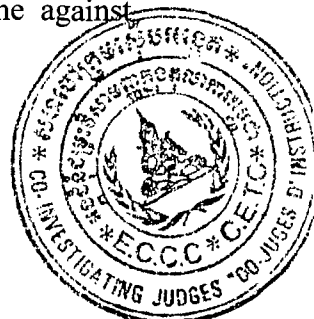
537. The preponderance of the evidence allows the conclusion that the workers at Stung Hav were not paid for their work, they were not free to go, had neither control over their daily schedule nor any choice of work they would engage in. Food was apportioned and even though it may have been better at some parts of the site for some people, it was still lamentably inadequate for the type of heavy labour required of the workers. Their treatment as mere cogs in the overall wheel of production at the different sub-sites in Stung Hav supports the conclusion that they were treated like chattels, i.e. like the property of the CPK and intentionally so, and hence that they were victims of the crime against humanity of enslavement.

#### *Crime against humanity of imprisonment*

538. The facts described under the previous heading, combined with the evidence regarding the length of detention at Stung Hav (weeks to months), and in relation to the detention of victims at the Stung Hav prison, also support the conclusion that victims were intentionally deprived of their personal liberty, and allow the finding of a crime against humanity of imprisonment.

#### *Crime against humanity of other inhumane acts (inhumane treatment, and forced labour)*

539. The same facts, in addition to the evidence regarding the conditions of detention, and of arrests and violent interrogations at the Stung Hav prison and at the “military place” 100 metres from the road, allow the conclusion that the intentional crime against





humanity of other inhumane acts based on inhumane treatment and forced labour was committed.

540. It is irrelevant in this context that the “*military place*” where some interrogations happened may formally have been outside Stung Hav District, because its link and proximity to Stung Hav is determinative, not its zoning character.

*Crime against humanity of persecution on political grounds, through murder, enslavement, imprisonment, and other inhumane acts*

541. The facts described under this crime site above also satisfy the elements of the crime against humanity of persecution on political grounds through murder, enslavement, imprisonment and other inhumane acts, because the persons were held at Stung Hav as they had been deemed politically unreliable and disloyal to the CPK. Nor is there any doubt that this was done intentionally.

*Premeditated homicide*

542. The killing of persons at Stung Hav amounts to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

### 7.3.7 Toek Sap Security Centre

*Crime against humanity of extermination*

543. The evidence related to this crime site supports the conclusion that intentional killings happened there regularly and on an intentionally massive scale, justifying the finding that the crime against humanity of extermination was committed.

*Crime against humanity of murder*

544. The same evidence together with the evidence surrounding people dying from starvation supports a finding of the crime against humanity of intentional murder. The appalling state of affairs at the site, arising from wholly inadequate food supplies combined with the hard labour required of the workers, was known to the cadres on site, and it was clear to them that the situation would inevitably lead to casualties.



*Crime against humanity of enslavement*

545. The evidence surrounding the workload and conditions allows the conclusion that the crime against humanity of enslavement was committed. The persons held at the sites were not in a position to choose whether to leave or not, and had neither control over their daily schedule nor any choice of work they would engage in. Food and medical care was at the very least lamentably inadequate for the type of heavy labour required of the workers. Their treatment as mere cogs in the overall wheel of production at the different sub-sites supports the conclusion that they were treated like chattels, i.e. like the property of the CPK, and intentionally so.

*Crime against humanity of imprisonment*

546. The same facts support the finding that the workers were intentionally deprived of their personal liberty and that the crime against humanity of imprisonment was committed.

*Crime against humanity of other inhumane acts (inhumane treatment, enforced disappearance, attacks on human dignity due to conditions of detention, and forced labour)*

547. The combined evidence related to the charges listed above, and the additional findings regarding the conditions of detention justify the conclusion that the crime against humanity of other inhumane acts, based on inhumane treatment, enforced disappearance, attacks on human dignity due to conditions of detention and forced labour, was committed.

*Crime against humanity of persecution on political and racial grounds, through extermination, murder, enslavement, imprisonment, and other inhumane acts*

548. The evidence supports the commission of the crime against humanity of persecution on political grounds through extermination, murder, enslavement, imprisonment, and other inhumane acts, because the majority of persons working at the sites, apart from active members of Division 164, had been deemed politically unreliable and disloyal to the CPK. There is no doubt that this was done intentionally.



549. However, there is no sufficiently reliable evidence that Thai, or Vietnamese or anyone else were detained or killed at Toek Sap on racial grounds. The charge of persecution on racial grounds must be dismissed.

*Grave breaches of the Geneva Conventions – unlawful confinement of civilians, wilful killing, wilfully causing great suffering or serious injury to body or health, and torture*

550. There is no sufficiently reliable evidence that either Thai or Vietnamese were detained or killed at Toek Sap. This charge must be dismissed.

*Premeditated homicide*

551. The killing of persons at Toek Sap Security Centre amounts to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

### 7.3.8 Wat Enta Nhien Security Centre

*Crime against humanity of extermination*

552. Based on the estimated minimum number of **400** deaths, it is reasonable to conclude that killings there took place on a massive scale, and on an intentional basis. The crime against humanity of extermination is therefore established.

*Crime against humanity of murder*

553. The same facts support the crime against humanity of murder.

*Crime against humanity of enslavement*

554. The evidence in relation to this charge is too tenuous to support an indictment with the necessary certainty. The charge must be dismissed.

*Crime against humanity of imprisonment*

555. The evidence in relation to this charge, albeit rather circumstantial, nonetheless allows the conclusion that an ultimately unknown number of people were detained at Wat Enta Nhien, for unknown periods of at least three days. The elements of the crime against humanity of imprisonment are fulfilled.



*Crime against humanity of torture*

556. The evidence in relation to this charge is too tenuous to support an indictment with the necessary certainty. This charge must be dismissed.

*Crime against humanity of other inhumane acts (inhumane treatment, enforced disappearance, and attacks upon human dignity due to conditions of detention)*

557. The evidence also allows the conclusion that those detained at Wat Enta Nhien were held in appalling conditions of detention that robbed them of the last vestiges of human dignity. The same applies to the disposal of their bodies in a manner intended to ensure that no one from the circle of their families or even their friends should ever know what happened to them. The elements of the crime against humanity of other inhumane acts based on inhumane treatment, enforced disappearance and attacks upon human dignity due to conditions of detention are satisfied.

*Crime against humanity of persecution on political grounds, through extermination, murder, enslavement, imprisonment, torture, and other inhumane acts*

558. The evidence does not allow any conclusions as to the category of prisoners held at Wat Enta Nhien, so that it is impossible to distinguish any motive for persecution with sufficient certainty. This charge must be dismissed.

*Grave breaches of the Geneva Conventions – unlawful confinement of civilians, wilful killing, wilfully causing great suffering or serious injury to body or health, and torture*

559. There is no sufficiently reliable evidence that either Thai or Vietnamese were detained or killed at Wat Enta Nhien. This charge must be dismissed.

*Premeditated homicide*

560. The killing of persons at Wat Enta Nhien amounts to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.



### 7.3.9 Forced marriage in Kampong Som

#### *Crime against humanity of other inhumane acts (forced marriage, and rape)*

561. Across Kampong Som couples were deliberately forced to marry and, in many cases, subsequently required to consummate their marriage against their will, i.e., many were raped. These egregious attacks on human dignity caused serious bodily injury and mental suffering and the only reasonable inference on the evidence is that this was intentional. The crime against humanity of other inhumane acts based on forced marriage and rape is made out.

## 8 LEGAL FINDINGS ON MODES OF LIABILITY

### 8.1 International crimes

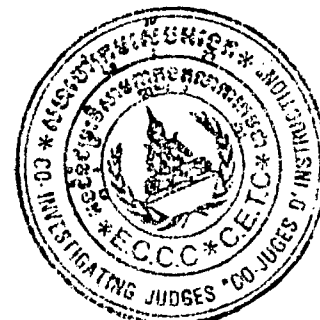
#### 8.1.1 Commission via joint criminal enterprise (JCE)

##### *The JCE – common purpose and members*

562. The evidence establishes that, between 17 April 1975 and lasting until at least 6 January 1979, **Meas Muth**, Son Sen, Sou Met, Ta Mok, and other senior RAK cadres shared the common purpose of implementing the following CPK policies:

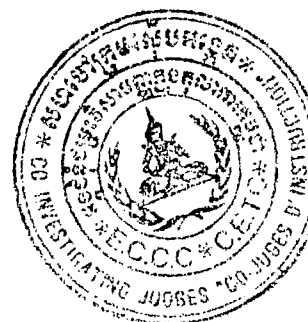
- i. establishing cooperatives and forced labour worksites;
- ii. re-educating ‘bad elements’ and killings ‘enemies’ both inside and outside the military;
- iii. targeting specific groups, in particular those of Vietnamese and Thai ethnicity or nationality (both real and perceived) as well as former military personnel, and civilians; and
- iv. implementing the forced marriage of civilians and soldiers of the RAK.

563. These policies were implemented on the basis of a JCE through the commission of all international crimes described above by **Meas Muth** and other members of the JCE, with persons who were not members of the JCE being used as tools.



*Meas Muth's participation in the JCE and intent to further the common purpose*

564. From 17 April 1975, **Meas Muth** was a member of this JCE, by which point he was Commander of Division 3, which later became Division 164.
565. As Commander of Division 164, which included the DK Navy (Regiment 140), as a reserve member of the General Staff Committee, and as Son Sen's Deputy, **Meas Muth** was aware of all CPK activities in his areas of responsibility. This knowledge was obtained through meetings and the system of communication and reporting he maintained with his superiors and subordinates. **Meas Muth** was the primary person responsible for implementing CPK policy in his area of authority and thus fully aware that implementing the CPK policies was to be achieved through the above crimes. With that knowledge, he continued to use his authority and power to actively contribute to the implementation of each aspect of the policies.
566. **Meas Muth** made a significant contribution to the CPK policy on worksites and cooperatives by, *inter alia*, convening meetings with his subordinates and instructing them on how to implement CPK economic policy, supervising and inspecting worksites, overseeing and monitoring construction and production, and controlling and mobilising the workforce and resources for the operation of worksites and cooperatives.
567. **Meas Muth** also made a significant contribution to the CPK policy on 'bad elements' and 'enemies' by, *inter alia*, being directly involved in arrests and transfers to S-21 of members of Divisions 164 and 117 and making subsequent announcements in respect of purged cadres; by more generally supporting the purge of Divisions 502 and 310; and by monitoring the implementation of the purges.
568. **Meas Muth** made a further significant contribution to the CPK policy targeting specific groups perceived as potential threats or being disloyal to the DK Regime, in particular, CPK cadres accused of 'traitorous activities', '17 April people', soldiers from the East Zone, and the Vietnamese and Thai, by *inter alia* denouncing these groups as traitors and/or enemies, ordering them to be identified, arrested and killed, and supporting the purge of these specific groups in his areas of authority and, when specifically instructed to do so, outside that area.



569. **Meas Muth** shared the special and discriminatory intent to destroy the Vietnamese through the underlying act of killing members of the group. He ordered his subordinates in the DK Navy to capture and kill all Vietnamese in the waters and the islands off the coast of DK without exception, because they were the hereditary enemies of the Khmer and needed to be eradicated. **Meas Muth** also shared the discriminatory intent with respect to the persecution of the Thai.
570. Finally, **Meas Muth** made a significant contribution to the CPK policy on forced marriage by disseminating the policy on marriage and the need to increase the population through his speeches at meetings. The only reasonable conclusion based on the totality of the evidence is that he also promulgated the rule whereby couples were required to consummate their marriages regardless of their consent.

#### 8.1.2 *Planning*

571. All international crimes listed in *Legal findings on crimes* which occurred in the Kampong Som area and in the waters and islands claimed by DK were committed in furtherance of CPK policy under the direct responsibility and authority of **Meas Muth** as Commander of Division 164 and Secretary of the Kampong Som Autonomous Sector. The only reasonable conclusion from the evidence is that he was decisively involved in establishing and mapping out the manner of their implementation as the supreme commander in that particular theatre of operations. The fact that **Meas Muth** was not himself at S-21 does not detract from his responsibility since he planned the crimes that occurred at S-21 from Kampong Som. Because of the need for his own contribution, the logistics of the transport of people to S-21, and his personal presence in Kratie, he was also involved in the planning of the purge of Division 117.
572. However, there is no evidence of his involvement in the purges of Divisions 502 and 310 beyond his participation in the purge JCE. **Meas Muth** is therefore not liable for planning the crimes against humanity of extermination, murder, imprisonment, torture, other inhumane acts (the last three committed at S-21), or persecution on political grounds in relation to the purges of Divisions 502 and 310.



### 8.1.3 *Ordering*

573. For the same reasons as mentioned above under Section 8.1.2, **Meas Muth** is liable for ordering all international crimes committed under his authority as Commander of Division 164 and Secretary of Kampong Som Autonomous Sector in the Kampong Som area and in the waters and islands claimed by DK. Because he also had specific delegated authority to conduct the purge of Division 117 on the ground in Kratie, his activity there must also be characterised as ordering. **Meas Muth** is not, however, liable for ordering the crimes against humanity committed at S-21 in relation to the purges of Divisions 502 and 310.

### 8.1.4 *Superior responsibility*

574. **Meas Muth** is furthermore liable, in the last alternative, as a superior for all international crimes committed under his authority as Commander of Division 164 and Secretary of Kampong Som Autonomous Sector in the Kampong Som area and in the waters and islands claimed by DK. Based on the rigorous reporting chains at the time, it is inconceivable that he did not know of the crimes being committed in his area of responsibility; given that he planned and ordered them, it is obvious that he did not intend to prevent any of the above-mentioned crimes from being committed; in any event there is no evidence that he ever did.

575. However, there is not enough evidence to assume the existence of circumstances supporting his liability under superior responsibility for the purge of Division 117. While he was instructed to carry out the purge operation, in the course of which he replaced the Division 117 leadership, the evidence does not allow the conclusion that he was himself its commander, however briefly. **Meas Muth** is therefore not liable as a superior for the crimes against humanity committed in relation to the purge of Division 117.





## 8.2 Domestic Crimes

### 8.2.1 Co-perpetration

576. **Meas Muth** is liable as a co-perpetrator for the crime of premeditated homicide in relation to killings committed by the DK Navy in killing Vietnamese and Thai, killings committed pursuant to the purges of Divisions 164, 502, 310, and 117, and in relation to killings committed at Durian Plantation Killing Site, Stung Hav Worksites, Toek Sap Security Centre, and Wat Enta Nhien Security Centre. **Meas Muth**, together with others, directly and intentionally participated in the perpetration of premeditated homicide in the instances of intentional killings mentioned at those sites.

### 8.2.2 Planning and ordering

577. For the reasons set out in Sections 8.1.2 and 8.1.3, **Meas Muth** is also liable for planning and ordering the crime of premeditated homicide except for the purges of Divisions 502 and 310: **Meas Muth** is therefore not liable for planning the crime of premeditated homicide in relation to the purges of Divisions 502 and 310.

## 9 DECISION ON PRE-TRIAL DETENTION

578. Although I have found that there are sufficient charges to commit **Meas Muth** for trial, I do not consider his detention pending trial a necessary measure to avert any of the risk factors under Internal Rule 63(3)(b). He has known for years that he is under investigation and has engaged with the CIJs throughout the judicial investigation. There is no indication that he may flee the jurisdiction, exert pressure on any witnesses or victims, or interfere with the judicial process in any other way. Neither do concerns for his security or the preservation of public order justify a detention order.

579. A further reason against ordering detention at this time is the procedural uncertainty resulting from the opposing closing orders, as a result of which it is unclear under Internal Rule 77(13) whether the indictment will stand should there be no super-majority upon appeal in the PTC.

## 10 TERMINATION ORDER UNDER RULE 66 BIS

580. I **TERMINATE** the judicial investigation concerning the facts excluded in the *Rule 66 bis* Decision, set out in paragraph 12.



## 11 PARTIAL DISMISSAL ORDER

581. The following charges are **DISMISSED**:

### 1. Killing of the Vietnamese by the DK Navy

- *Crime against humanity of persecution on political grounds, through extermination, murder, and other inhumane acts*

### 2. Killing of the Thai by the DK Navy

- *Crime against humanity of persecution on political grounds, through extermination, murder, and other inhumane acts*

### 3. Durian Plantation Killing Site

- *Crime against humanity of persecution on political grounds, through extermination, murder, and other inhumane acts*

### 4. Kang Keng and Bet Trang (Ream Area) Worksites

- *Crime against humanity of persecution on racial grounds, through enslavement, imprisonment, and other inhumane acts*

### 5. Toek Sap Security Centre

- *Crime against humanity of persecution on racial grounds, through extermination, murder, enslavement, imprisonment, and other inhumane acts*
- *Grave breaches of the Geneva Conventions – unlawful confinement of civilians, wilful killing, wilfully causing great suffering or serious injury to body or health, and torture*



## 6. Wat Enta Nhien Security Centre

- *Crime against humanity of enslavement*
- *Crime against humanity of torture*
- *Crime against humanity of persecution on political grounds, through extermination, murder, enslavement, imprisonment, torture, and other inhumane acts*
- *Grave breaches of the Geneva Conventions – unlawful confinement of civilians, wilful killing, wilfully causing great suffering or serious injury to body or health, and torture*



**12 INDICTMENT****Meas Muth**

born on 10 August 1938,  
in Po Village,  
Srae Khnong Commune,  
Chhuk District,  
Kampot Province

Current address:  
House No. 149, Group 9,  
Ta Sanh Khang Cheung Village,  
Ta Sanh Commune, Samlout District,  
Battambang Province

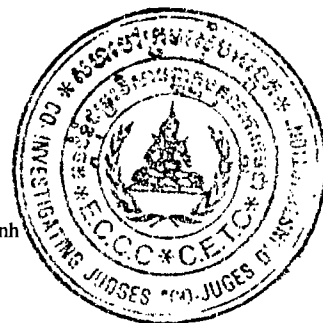
**IS INDICTED AND COMMITTED FOR TRIAL  
FOR THE FOLLOWING CRIMES****COUNT 1:****GENOCIDE**

against the Vietnamese by killing members of the group,

through commission via joint criminal enterprise (“JCE”); in the alternative, through  
planning or ordering; and in the further alternative, through superior responsibility,

based on the facts set out in paragraphs 149-205 and 217-257,

punishable under Articles 4, 29, and 39 of the ECCC Law.



**COUNT 2:****CRIMES AGAINST HUMANITY****1. Killing of the Vietnamese by the DK Navy**

In the waters and on the islands claimed by DK, and in the Kampong Som area

- *Crime against humanity of extermination*
- *Crime against humanity of murder*
- *Crime against humanity of other inhumane acts (inhumane treatment, and enforced disappearance)*
- *Crime against humanity of persecution on racial grounds, through extermination, murder, and other inhumane acts*

At S-21 Security Centre

- *Crime against humanity of murder*
- *Crime against humanity of imprisonment*
- *Crime against humanity of torture*
- *Crime against humanity of other inhumane acts (inhumane treatment, and attacks on human dignity due to conditions of detention)*

committed through JCE; in the alternative, through planning or ordering; and in the further alternative through superior responsibility,

based on the facts set out in paragraphs 149-205 and 217-257,

punishable under Articles 5, 29, and 39 of the ECCC Law.



## 2. Killing of the Thai by the DK Navy

### In the waters and on the islands claimed by DK, and in the Kampong Som area

- *Crime against humanity of extermination*
- *Crime against humanity of murder*
- *Crime against humanity of other inhumane acts (inhumane treatment, and enforced disappearance)*
- *Crime against humanity of persecution on racial grounds, through extermination, murder, and other inhumane acts*

### At S-21 Security Centre

- *Crime against humanity of murder*
- *Crime against humanity of imprisonment*
- *Crime against humanity of torture*
- *Crime against humanity of other inhumane acts (inhumane treatment, and attacks on human dignity due to conditions of detention)*

committed through JCE; in the alternative, through planning or ordering; and in the further alternative through superior responsibility,

based on the facts set out in paragraphs 149-205 and 217-257,

punishable under Articles 5, 29, and 39 of the ECCC Law.



### 3. Durian Plantation Killing Site

- *Crime against humanity of extermination*
- *Crime against humanity of murder*
- *Crime against humanity of other inhumane acts (enforced disappearance)*
- *Crime against humanity of persecution on racial grounds, through extermination, murder, and other inhumane acts*

committed through JCE; in the alternative, through planning or ordering; and in the further alternative through superior responsibility,

based on the facts set out in paragraphs 149-205 and 258-269,

punishable under Articles 5, 29, and 39 of the ECCC Law.

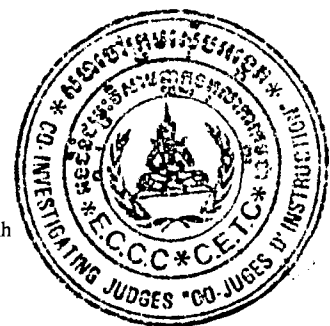
### 4. Purges of Divisions 164, 502, 310 and 117

#### At locations other than S-21 Security Centre

- *Crime against humanity of extermination*
- *Crime against humanity of murder*
- *Crime against humanity of persecution on political grounds, through extermination, and murder*

#### At S-21 Security Centre

- *Crime against humanity of extermination*
- *Crime against humanity of murder*
- *Crime against humanity of imprisonment*
- *Crime against humanity of torture*



- *Crime against humanity of other inhumane acts (inhumane treatment, and attacks on human dignity due to conditions of detention)*
- *Crime against humanity of persecution on political grounds, through extermination, murder, imprisonment, torture, and other inhumane acts*

committed, in relation to:

- Division 164 through JCE; in the alternative, through planning or ordering; and in the further alternative through superior responsibility;
- Divisions 502 and 310 through JCE; and
- Division 117 through JCE; and in the alternative, through planning or ordering,

based on the facts set out in paragraphs 149-205 and 270-329,

punishable under Articles 5, 29, and 39 of the ECCC Law.

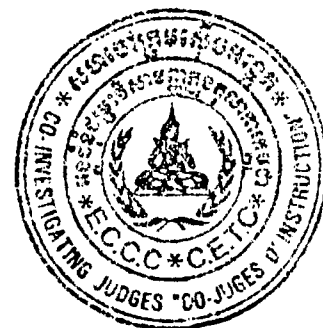
##### **5. Kang Keng and Bet Trang (Ream Area) Worksites**

- *Crime against humanity of enslavement*
- *Crime against humanity of imprisonment*
- *Crime against humanity of other inhumane acts (inhumane treatment, enforced disappearance, attacks on human dignity due to conditions of detention, and forced labour)*
- *Crime against humanity of persecution on political grounds, through enslavement, imprisonment, and other inhumane acts*

committed through JCE; in the alternative, through planning or ordering; and in the further alternative through superior responsibility,

based on the facts set out in paragraphs 149-205 and 330-354,

punishable under Articles 5, 29, and 39 of the ECCC Law.





## 6. Stung Hav Worksites

- *Crime against humanity of murder*
- *Crime against humanity of enslavement*
- *Crime against humanity of imprisonment*
- *Crime against humanity of other inhumane acts (inhumane treatment, and forced labour)*
- *Crime against humanity of persecution on political grounds, through murder, enslavement, imprisonment, and other inhumane acts*

committed through JCE; in the alternative, through planning or ordering; and in the further alternative through superior responsibility,

based on the facts set out in paragraphs 149-205 and 355-402,

punishable under Articles 5, 29, and 39 of the ECCC Law.

## 7. Toek Sap Security Centre

- *Crime against humanity of extermination*
- *Crime against humanity of murder*
- *Crime against humanity of enslavement*
- *Crime against humanity of imprisonment*
- *Crime against humanity of other inhumane acts (inhumane treatment, enforced disappearance, attacks on human dignity due to conditions of detention, and forced labour)*
- *Crime against humanity of persecution on political grounds, through extermination, murder, enslavement, imprisonment, and other inhumane acts*



committed through JCE; in the alternative, through planning or ordering; and in the further alternative through superior responsibility,

based on the facts set out in paragraphs 149-205 and 403-425,

punishable under Articles 5, 29, and 39 of the ECCC Law.

#### **8. Wat Enta Nhien Security Centre**

- *Crime against humanity of extermination*
- *Crime against humanity of murder*
- *Crime against humanity of imprisonment*
- *Crime against humanity of other inhumane acts (inhumane treatment, enforced disappearance, and attacks upon human dignity due to conditions of detention)*

committed through JCE; in the alternative, through planning or ordering; and in the further alternative through superior responsibility,

based on the facts set out in paragraphs 149-205 and 426-443,

punishable under Articles 5, 29, and 39 of the ECCC Law.

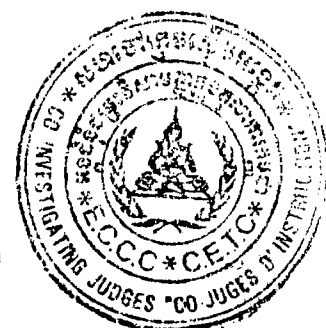
#### **9. Forced marriage in Kampong Som**

- *Crime against humanity of other inhumane acts (forced marriage, and rape)*

committed through JCE; in the alternative, through planning or ordering; and in the further alternative, through superior responsibility,

based on the facts set out in paragraphs 149-205 and 444-455,

punishable under Articles 5, 29, and 39 of the ECCC Law.



**COUNT 3:****WAR CRIMES****1. Killing of the Vietnamese by the DK Navy**

- *Grave breaches of the Geneva Conventions – unlawful confinement of civilians, wilful killing, wilfully causing great suffering or serious injury to body or health, and, additionally at S-21 Security Centre, torture*

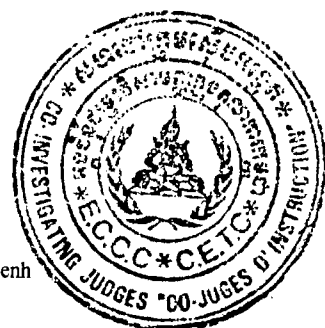
**2. Killing of the Thai by the DK Navy**

- *Grave breaches of the Geneva Conventions – unlawful confinement of civilians, wilful killing, wilfully causing great suffering or serious injury to body or health, and, additionally at S-21 Security Centre, torture*

committed through JCE, in the alternative through planning or ordering, and in the further alternative through superior responsibility,

based on the facts set out in paragraphs 149-257,

punishable under Articles 6, 29, and 39 of the ECCC Law.



**COUNT 4:****VIOLATIONS OF THE 1956 PENAL CODE****Premeditated homicide:**

- Killing of the Vietnamese by the DK Navy
- Killing of the Thai by the DK Navy
- Durian Plantation Killing Site
- Purges of Divisions 164, 502, 310, and 117
- Stung Hav Worksites
- Toek Sap Security Centre
- Wat Enta Nhien Security Centre

through commission (co-perpetration), and (except for crimes relating to Divisions 502 and 310) in the alternative planning or ordering,

based on the facts set out in paragraphs 149-205, 217-329, and 355-443,

punishable under Articles 3 (new), 29, and 39 of the ECCC Law and Articles 501 and 506 of the 1956 Penal Code.

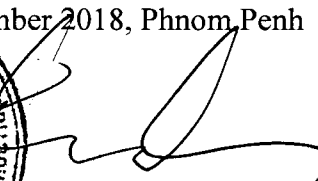
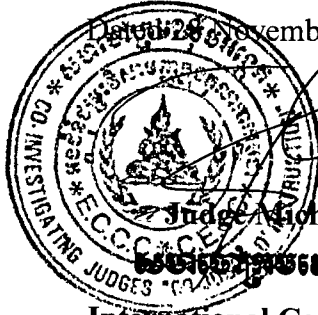


**13 TERMINATION OF THE REMAINDER OF THE INVESTIGATION**

The remainder of the investigation in Case 003, unless addressed by Sections 10 – 12 above, is terminated.

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

12/01/2018, 12 November 2018, Phnom Penh

**Judge Michael Bohlander**  
**អង្គជំនុំជម្រះស៊ើបអង្កេតអន្តរជាតិ**  
**International Co-Investigating Judge**  
**Co-juge d'instruction internationale**