



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Kingdom of Cambodia
Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Royaume du Cambodge
Nation Religion Roi

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

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

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

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Before: **The Co-Investigating Judges**
Date: **13 June 2017**
Language(s): **English & Khmer [Original in English]**
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**DECISION TO REDUCE THE SCOPE OF JUDICIAL
INVESTIGATION PURSUANT TO INTERNAL RULE 66 bis**

Distribution:

Co-Prosecutors
CHEA Leang
Nicholas KOUMJIAN

Yim Tith Defence
SO Mosseny
Suzana TOMANOVIĆ
Neville SORAB

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

Laure DESFORGES
Isabelle DURAND
Emmanuel JACOMY
Martine JACQUIN
Lyma NGUYEN
Nushin SARKARTI



I. PROCEDURAL HISTORY

1. Disagreements between the Co-Investigating Judges (“CIJs”) in this case were registered on 22 February 2013, 5 April 2013, 21 October 2015, and 16 January 2017.
2. On 4 March 2016, in my *Request for Comments regarding Alleged Facts Not to Be Investigated Further*,¹ I informed the parties of my intention not to further investigate certain facts.
3. Yim Tith filed comments on 8 April 2016,² and the International Co-Prosecutor (“ICP”) filed comments on 11 April 2016.³
4. On 25 August 2016, I issued the *Notice of Provisional Discontinuance Regarding Individual Allegations*⁴ in which I informed the parties that I would not further investigate the following facts alleged in the ICP’s submissions, which *prima facie* appear to be subject to Internal Rule 66 *bis*:
 - a) **Fact 6** – All allegations relating to Damnak Reang execution site,⁵
 - b) **Fact 13** – Allegations of forced marriage near Kang Hat Dam,⁶
 - c) **Fact 14** – Allegations in relation to sites in Sector 5, Northwest Zone:
 - Phnom Trayoung security centre and worksite,⁷
 - Spean Spreng and Prey Roneam Dam worksites,⁸
 - Wat Preah Net Preah and related detention and execution sites,⁹
 - Phum Chakrey security centre and execution site,¹⁰
 - Prey Taruth execution site,¹¹
 - Wat Chamkar Khnol execution site,¹² and
 - Trapeang Thma Dam worksite.¹³
5. On 20 January 2017, in my *Notice of Intention to Add Modes of Liability by way of Judicial Order and of Provisional Discontinuance*,¹⁴ I informed the parties of my intention not to further investigate additional facts.

¹ Case File No. 004-D302, *Request for Comments Regarding Alleged Facts Not to Be Investigated Further*, 4 March 2016.

² Case File No. 004-D302/1, *Yim Tith’s Submissions on Alleged Facts Not to Be Investigated Further*, 8 April 2016.

³ Case File No. 004-D302/2, *International Co-Prosecutor’s Response to the International Co-Investigating Judge’s Request for Comments Regarding Alleged Facts Not to Be Investigated Further*, 11 April 2016.

⁴ Case File No. 004-D302/3, *Notice of Provisional Discontinuance Regarding Individual Allegations*, 25 August 2016.

⁵ Case File No. 004-D65, *Co-Prosecutors’ Supplementary Submission Regarding Sector 1 Crime Sites and Persecution of Khmer Krom*, 18 July 2011 (“1SS”), para. 9.

⁶ Case File No. 004-D272/1, *Response to Forwarding Order dated 5 November 2015 and Supplementary Submission Regarding the Scope of Investigation into Forced Marriage in Sectors 1 and 4*, 20 November 2015 (“4SS”), para. 6.

⁷ Case File No. 004-D1, *Co-Prosecutors’ Third Introductory Submission*, 20 November 2008 (“3IS”), paras 74 – 75.

⁸ 3IS, para. 79.

⁹ 3IS, para. 77.

¹⁰ 3IS, para. 76.

¹¹ 3IS, para. 76.

¹² 3IS, para. 71.

¹³ 3IS, para. 78.



6. On 1 February 2017, the ICP filed his response.¹⁵ Yim Tith did not submit any comments.
7. On 17 March 2017, I issued the *Notice of Provisional Discontinuance Regarding Facts Relating to Six Crime Sites*, informing the parties that I would not continue to investigate further facts alleged in the ICP's submissions, which *prima facie* appear to be subject to Internal Rule 66 *bis*:
 - a) **Crime Site 8**¹⁶ – Anlong Vil Breng and Related Execution Site¹⁷
 - b) **Crime Site 14** – Phnom Tra Chek Chet Worksite¹⁸
 - c) **Crime Site 15** – Banteay O Ta Krey Execution Site¹⁹
 - d) **Crime Site 23** – Wat Kandal Security Centre²⁰
 - e) **Crime Site 24** – Wat Banteay Neang Security Centre²¹
 - f) **Crime Site 25** – Wat Thoamayutt Security Centre²²
8. On 4 May 2017, I notified the parties of my intention to exclude Facts 6, 13, 14, and facts relating to Crime Sites 8, 14, 15, 23, 24, and 25 from the investigation pursuant to Internal Rule 66 *bis* (“Notification Pursuant to Internal Rule 66 *bis* (2)”) at the time of the conclusion of the investigation. I invited the parties to file submissions within 15 days.²³
9. The parties have not filed any submissions.

II. DISCUSSION

10. Today, the CIJs notified the parties pursuant to Internal Rule 66(1) that the judicial investigation against Yim Tith is concluded, and I now issue the concomitant decision under Internal Rule 66 *bis*.
11. I exclude Facts 6, 13, 14, and facts relating to Crime Sites 8, 14, 15, 23, 24, and 25 from the investigation for the reasons stated in the August 2016, January 2017 and March 2017 notices, as well as the *Notification Pursuant to Internal Rule 66 bis* (2).
12. The remaining facts are representative of the scope of the ICP's Introductory and Supplementary Submissions geographically, temporally and substantively, in terms of the nature and scale of crimes and the categories of victims.

¹⁴ Case File No. 004-D342, *Notice of Intention to Add Modes of Liability By Way of Judicial Order and of Provisional Discontinuance*, 20 January 2017.

¹⁵ Case File No. 004-D342/1, *International Co-Prosecutor's Response to the International Co-Investigating Judge's Notice of Intention to Add Modes of Liability by way of Judicial Order and of Provisional Discontinuance*, 1 February 2017.

¹⁶ The numbering of crime sites used in this document refers to the numbers used in the following document: Case File No. 004-D281, *Written Record of Initial Appearance*, 9 December 2015.

¹⁷ 1SS, para.7.

¹⁸ 1SS, para.7.

¹⁹ 3IS, para. 61.

²⁰ 3IS, paras 65 and 66.

²¹ 3IS, para. 69.

²² 3IS, para. 63-64.

²³ Case File No. 004-D354, *Notification Pursuant to Internal Rule 66 bis* (2), 4 May 2017.




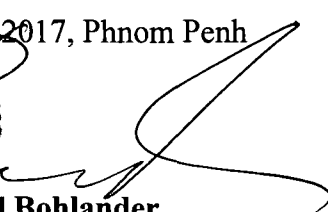
- 13. Under Internal Rule 66 *bis* (5), evidence relating to excluded facts may still be relied upon insofar as it is relevant to the remaining facts.
- 14. Exclusion of Facts 6, 13, 14, and facts relating to Crime Sites 8, 14, 15, 23, 24, and 25 will not affect the status of Civil Parties or the right of Civil Party applicants to participate in the judicial investigation.

FOR THE FOREGOING REASONS, I:

- 15. **DECIDE** to exclude Facts 6, 13, 14, and facts relating to Crime Sites 8, 14, 15, 23, 24, and 25 from the investigation pursuant to Internal Rule 66 *bis*.

Dated: 13 June 2017, Phnom Penh




Judge Michael Bohlander
សម្របសម្រួលអន្តរជាតិ

International Co-Investigating Judge
Co-juge d’instruction international