

# The Phnom Penh Post

## **No testimony from architect of KR downfall: judges James O'Toole and Cheang Sokha June 15, 2010**

Judges at the Khmer Rouge tribunal have rejected a request from defence lawyers that investigators interview a witness with a “unique role as both a former member of the Khmer Rouge and one of the architects of Democratic Kampuchea’s downfall”, according to a decision made public on Monday.

The name of the proposed witness is redacted in public documents, as are certain other identifying details. In the decision, the court’s Pre-Trial Chamber judges affirmed a February ruling from the Co-Investigating Judges (CIJs) stating that an interview with the witness and a translation of his autobiography from Khmer into English were not necessary for the Case 002 investigation.

In requesting that the CIJs interview the proposed witness, defence lawyers for former Khmer Rouge Brother No 2 Nuon Chea said the individual was in “a unique position to provide information on the alleged hostilities with Vietnam” and on documents and other information gathered during the Vietnamese occupation.

The Pre-Trial Chamber judges, however, held to the CIJs’ view that there is “a sufficient quantity of historical research and evidentiary material already placed on the Case File” regarding the issues for which the proposed witness would be interviewed. The CIJs also noted that the individual “was not present in Cambodia at any time either immediately before or during” the Democratic Kampuchea period, and thus could not provide a firsthand account of crimes under investigation.

Although court officials said they could not confirm the identity of the proposed witness, one man whose biography matches details released in the decision is former People’s Republic of Kampuchea (PRK) prime minister Pen Sovan.

Pen Sovan worked alongside Case 002 suspects Ieng Sary and Ieng Thirith in the early 1970s before defecting to Vietnam in 1974. In 1978, he became one of the founding members of the Kampuchean United Front for National Salvation, an organisation that worked with the Vietnamese in overthrowing Democratic Kampuchea and founding the PRK.

Pen Sovan said Monday that he had never been contacted by tribunal officials, but that he stood ready to aid in the investigation.

“It would be my honour to be a witness,” Pen Sovan said. “I am ready and prepared, because during the Khmer Rouge regime, my colleagues were treated badly and killed, and about 20 of my relatives were also killed.”

The Pre-Trial Chamber noted in its decision, dated Thursday, that the proposed witness “spent a significant period of time in custody ... after 1979”. Pen Sovan was forced out of power and arrested in 1981 after coming into conflict with Vietnamese advisers in the PRK government. He spent the next 10 years imprisoned in Vietnam.

But despite his enthusiasm about testifying, Pen Sovan said Monday that he was sceptical of the Khmer Rouge tribunal’s ability to deliver justice in view of challenges to its independence by the Cambodian government.

“The court has been interfered with by politicians and will not make a fair decision,” Pen Sovan said.