

**BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

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**CO-PROSECUTORS' REQUEST FOR INVESTIGATIVE ACTION IN RELATION TO
VOEUN VUTHY PURSUANT TO RULE 93**

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I. REQUEST

1. In relation to the Trial Chamber's stated intent to call Voeun Vuthy to testify at an unspecified date¹, the Co-Prosecutors submit this request for investigation pursuant to Rule 93. Rule 93 states that "[w]here the Chamber considers that a new investigation is necessary it may, at any time, order additional investigations." The necessity of the investigation must be justified by the interests of justice.²
2. The Trial Chamber has admitted into evidence³ an article from the Phnom Penh Post titled "Skull by skull, team catalogues KR killings"⁴ ("Article"). The Article described a two-year investigation conducted at Choeung Ek by Voeun Vuthy and a team of investigators "searching for data they could use to deduct the age, sex and manner of death of the victims."⁵ The Trial Chamber has also admitted into evidence portions of the Choeung Ek Study resulting from the investigation, as well as an Evaluation Report of the Choeung Ek Study project.⁶
3. The Trial Chamber has granted the Nuon Chea request to have Voeun Vuthy appear as a witness in Case 002/02.⁷ In relation to that testimony, and for the benefit of the ascertainment of the truth in Case 002/02 generally, the Co-Prosecutors ask the Trial Chamber to seek to obtain the following two categories of information from Voeun Vuthy prior to his appearance as a witness. The information requested appears, on the basis of information contained in the Article, to be available to Voeun Vuthy. The Co-Prosecutors submit that making this information available to the parties well before Voeun Vuthy

¹ **E404/4**, Trial Chamber Memorandum Entitled "Decision on the Admission into Evidence of the Choeung Ek Study Documents", 23 May 2016, para. 7.

² **E294/1** Decision on Nuon Chea Request to Admit New Documents, to Initiate an Investigation and to Summons Mr. Rob Lemkin, 24 July 2013, para. 11.

³ Draft Transcript, 21 April 2016, 11.42.25.

⁴ Crane, Brent, "Skull by skull, team catalogues KR killings", Phnom Penh Post, 6 February 2016, available at <http://www.phnompenhpost.com/post-weekend/skull-skull-team-catalogues-kr-killings> (last visited 2 June 2016). Although admitted, the Co-Prosecutors note that the Article does not yet appear to have been placed onto the Case File on Zylab.

⁵ Crane, Brent, "Skull by skull, team catalogues KR killings", Phnom Penh Post, 6 February 2016, available at <http://www.phnompenhpost.com/post-weekend/skull-skull-team-catalogues-kr-killings> (last visited 2 June 2016).

⁶ **E404/4**, Trial Chamber Memorandum Entitled "Decision on the Admission into Evidence of the Choeung Ek Study Documents", 23 May 2016.

⁷ **E404/4**, Trial Chamber Memorandum Entitled "Decision on the Admission into Evidence of the Choeung Ek Study Documents", 23 May 2016.

appears as a witness will likely make his testimony much more enlightening on matters at issue in the trial.

4. In relation to the first category of information, the Article states the following:

To complement the forensic work, Vuthy interviewed several of the killers at Choeung Ek, footage of which will be released as a film next year. One of them was Him Huy, the lead guard in charge of the killing there. The ageing Huy, who has not been tried for his crimes, was frighteningly open during his two-hour interview. 'He told us everything,' Vuthy said.

Huy confirmed most of the murder methods Vuthy and his team deducted, but he added details. On most days, killings started at 6pm and didn't end until midnight, Huy said. They never killed during the day. The bloodiest year was 1978, according to Huy.

5. The Co-Prosecutors request that the Trial Chamber obtain any available transcripts and/or films of the interviews described. This evidence would be relevant to the Case 002/02 crime site Choeung Ek,⁸ and will contain statements of at least one individual who has testified before this Chamber in Case 002/02, Him Huy.⁹ Obtaining this information would therefore be in the interests of justice.
6. In relation to the second category of information, the Article states: "Vuthy and his team plan to continue their work at a new gravesite – Krang Ta Chan in Takeo province, where over 10,000 bodies have been unearthed." The Co-Prosecutors request that the Trial Chamber obtain any information available to Voeun Vuthy and his team that concerns their work at Kraing Ta Chan or prior exhumations or collections of remains from the site. This information would be relevant to the Case 002/02 crime site Kraing Ta Chan.¹⁰ Obtaining this information would therefore be in the interests of justice.

⁸ **E301/9/1.1** List of Paragraphs and Portions of the Closing Order relevant to Case 002/02, 4 April 2014, para. 3(vi); **D427** Case 002 Closing Order, 15 September 2010, para. 415 ("The S-21 security centre (S-21) was composed of a detention centre in Phnom Penh and an execution site (Choeung Ek) located some 15 kilometres to the south-west of Phnom Penh, in Kandal province.").


⁹ Him Huy testified on 3, 4, & 5 May 2016.

¹⁰ **E301/9/1.1** List of Paragraphs and Portions of the Closing Order relevant to Case 002/02, 4 April 2014, para. 3(vii).

III. REQUESTED RELIEF

7. Therefore, the Co-Prosecutors respectfully request the Trial Chamber to obtain the information described above and provide it to the Case 002/02 parties.

Respectfully submitted,

Date	Name	Place	Signature
7 June 2016	CHEA Leang Co-Prosecutor	Phnom Penh	
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