

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

FILING DETAILS

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**NUON CHEA'S SUBMISSIONS ON THE RELEVANCE OF EVIDENCE OF
TREASONOUS REBELLION TO HIS INDIVIDUAL CRIMINAL RESPONSIBILITY
IN CASE 002/02**

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I. APPLICABLE LAW

1. ECCC Internal Rules (Rev. 9), revised on 16 Jan 2015
2. Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea, revised on 23 Nov 2004
3. International Covenant on Civil and Political Rights, 999 UNTS 171, entered into force on 23 Mar 1976
4. Constitution of the Kingdom of Cambodia

II. ECCC DECISIONS AND ORDERS

A. Co-Investigating Judges

5. **D427**, ‘Closing Order’, 26 Sep 2010

B. Trial Chamber

6. **E131**, ‘Scheduling Order for Opening Statements and Hearing on the Substance in Case 002’, 18 Oct 2011
7. **E301/9/1**, ‘Decision on Additional Severance of Case 002 and Scope of Case 002/02’, 4 Apr 2014
8. **E305/15**, ‘New Pseudonyms for Witnesses, Civil Parties and Experts Proposed to be Heard in Case 002/02’, 24 Jul 2014
9. **E313**, ‘Case 002/01 Judgement’, 7 Aug 2014
10. **E370/4**, ‘Decision on Nuon Chea Request to Expedite Two Previously Proposed Witnesses and Summons Four Additional Witnesses During the Case 002/02 Trial Topic on the Treatment of the Cham and on National Co-Prosecutor’s Request to Admit Written Testimony in Lieu of In-Court Appearance’, 25 Mar 2016
11. **E395/1**, ‘Request for briefing on significance of conflicting factions within the DK leadership’, 11 May 2016
12. **E399/4**, ‘Decision on Nuon Chea’s Rule 92 Motion to Use Certain S-21 Statements’, 19 May 2016

C. Supreme Court Chamber

13. **E284/4/8**, ‘Decision on Immediate Appeals against Trial Chamber’s Second Decision on Severance of Case 002’, 25 Nov 2013
14. **E301/9/1/1/3**, ‘Decision on KHIEU Samphân’s Immediate Appeal against the Trial Chamber’s Decision on Additional Severance of Case 002 and Scope of Case 002/02’, 29 Jul 2014
15. **F26/12**, ‘Decision on Objections to Documents Lists, Full Reasons’, 31 Dec 2015

III. ECCC TRANSCRIPTS

16. T. 22 Nov 2011 (Case 002 Opening Statements, **E1/14.1**)
17. T. 31 Jan 2012 (Nuon Chea, **E1/36.1**)
18. T. 9 Apr 2012 (Kaing Guek Eav *alias* Duch, **E1/62.1**)
19. T. 20 Feb 2013 (Severance Hearing, **E1/172.1**)
20. T. 22 Oct 2013 (Closing Oral Submissions, **E1/232.1**)
21. T. 31 Oct 2013 (Nuon Chea Closing Submissions, **E1/237.1**)
22. T. 26 Aug 2015 (Documents Hearing, **E1/337.1**)
23. T. 27 Aug 2015 (Document Hearing, **E1/338.1**)
24. T. 3 Feb 2016 (In Yoeung, **E1/387.1**)
25. T. 28 Apr 2016 (Prak Khan, **Draft Transcript**)

IV. ECCC PARTY FILINGS

A. Case 002/01

26. **E284/4/1**, ‘Immediate Appeal Against Trial Chamber’s Second Decision on Severance and Response to Co-Prosecutors’ Second Severance Appeal’, 27 May 2013
27. **E295/6/3**, ‘Nuon Chea’s Closing Submissions in Case 002/01’, 26 Sep 2013
28. **F16**, ‘Nuon Chea’s Appeal of the Judgment in Case 002/01’, 29 Dec 2014

29. **F2/7**, ‘Nuon Chea’s Fifth Request to Consider and Obtain Additional Evidence in Connection with the Appeal Against the Trial Judgement in Case 002/01’, 25 Jun 2015
30. **F2/8**, ‘Nuon Chea’s Sixth Request to Consider and Obtain Additional Evidence in Connection with the Appeal Against the Trial Judgement in Case 002/01’, 11 Sep 2015
31. **F2/4/3/3/6/1**, ‘Nuon Chea’s Submissions on Robert Lemkin’s Transcripts and the Significance of the “Rift” Within the CPK’, 8 Oct 2015
32. **F2/10**, ‘Nuon Chea’s Request for Reconsideration of the Supreme Court Chamber’s Decision Not to Summons Heng Samrin and Robert Lemkin and to Admit Evidence Produced by Robert Lemkin on Appeal’, 4 Feb 2016

B. Case 002/02

33. **E305/4**, ‘Updated Lists and Summaries of Proposed Witnesses, Civil Parties and Experts’, 8 May 2014
34. **E305/5**, ‘Témoins et experts proposés par la Défense de M. KHIEU Samphan pour le procès 002/02’, 9 May 2014
35. **E305/6**, ‘Co-Prosecutors’ Proposed Witness, Civil Party and Expert List and Summaries for the Trial In Case File 002/02 (With 5 Confidential Annexes I, II, IIA, III and IIIA)’, 9 May 2014
36. **E305/7**, ‘Civil Party Lead Co-Lawyers’ Rule 80 Witness, Expert and Civil Party Lists for Case 002/02 With Confidential Annexes’, 9 May 2014
37. **E314/6**, ‘Nuon Chea Application for Disqualification of Judges Nil Nonn, Ya Sokhan, Jean-Marc Lavergne and You Ottara’, 29 Sep 2014
38. **E319/16**, ‘Nuon Chea’s Motion in Relation to Disclosures From Cases 003 and 004 and Response to the International Co-Prosecutor’s Filing Providing Information In This Regard’, 5 Mar 2015
39. **E319/30**, ‘Nuon Chea’s Rule 87(4) Request for Admission of Six Statements and One Annex Relevant to Case 002/02’, 24 Aug 2015
40. **E366/2**, ‘Nuon Chea’s Response to the International Co-Prosecutor’s Request to Call Additional Witnesses on Treatment of the Cham’, 25 Sep 2015

41. **E370**, ‘Nuon Chea’s Urgent and Consolidated Request to Expedite Two Already- Requested Witnesses and Summons Four Additional Witnesses Regarding the Treatment of the Cham’, 29 Sep 2015
42. **E391**, ‘Nuon Chea’s First Rule 87(4) Request to Call Additional Witnesses and Rule 93 Request for Additional Investigations in Relation to the Case 002/02 Trial Segment on S- 21 Security Centre and “Internal Purges”’, 24 Mar 2016
43. **E392**, ‘Nuon Chea’s Second Witness Request for the Case 002/02 Security Centres and “Internal Purges” Segment (Leadership)’, 1 Apr 2016
44. **E395**, ‘Nuon Chea’s Third Witness Request for the Case 002/02 Security Centres and “Internal Purges” Segment (Evidence of Treasonous Rebellion)’, 8 Apr 2016
45. **E399**, ‘Nuon Chea’s Rule 92 Motion to Use Certain S-21 Statements’, 20 Apr 2016
46. **E399/3**, ‘Nuon Chea’s Combined Reply to Co-Prosecutors’ and Civil Party Lead Co- Lawyers’ Responses to Nuon Chea’s Rule 92 Motion to Use Certain S-21 Statements’, 12 May 2016
47. **E409**, ‘Nuon Chea’s Request to Recall Witness Prak Khan’, 27 May 2016
48. **E412**, ‘Nuon Chea’s Fourth Witness Request for the Case 002/02 Security Centres and “Internal Purges” Segment (S-21 Operations and Documentary Evidence), 7 Jun 2016

V. INTERNATIONAL AND REGIONAL LAW

A. Treaties and Instruments

49. *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948)
50. United Nations, *Charter of the United Nations*, 1 UNTS XVI, entered into force 24 Oct 1945
51. *Convention Concerning Forced or Compulsory Labour*, 39 UNTS 55, entered into force on 1 May 1932
52. *European Convention on the Protection of Human Rights and Fundamental Freedoms*, ETS 5, entered into force on 3 Sep 1953 (“ECHR”)
53. *ASEAN Human Rights Declaration* (2012)

54. UN Human Rights Committee, *General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial*, U.N. Doc. CCPR/C/GC/32 (2007)

B. Jurisprudence

55. *Prosecutor v. Krnojelac*, ‘Judgement’, Case No. IT-97-25-T, 15 Mar 2002

VI. MISCELLANEOUS REFERENCES

56. **F30/11.1.3**, David Cohen, Melanie Hyde and Penelope Van Tuyl, *A Well-Reasoned Opinion? Critical Analysis of the First Case Against the Alleged Senior Leaders of the Khmer Rouge (Case 002/01)*, 2015, available at: <https://handacenter.stanford.edu/report/well-reasoned-opinion-critical-analysis-first-case-against-alleged-senior-leaders-khmer-rouge>
57. **F16.1.28**, Kevin J. Heller, *The Nuremberg Military Tribunals and the Origins of International Criminal Law*, 2011

VII. ATTACHMENTS

58. ‘Memorandum of Conversation’, The White House, 5 Jul 1975 – **Attachment 1**
59. Diplomatic Cable from the US Ambassador to Jakarta to the Secretary of State entitled ‘Ford-Suharto Meeting’, 6 Dec 1975 – **Attachment 2**
60. Email from Trial Chamber Senior Legal Officer to the Parties, 8 Apr 2016 – **Attachment 3**
61. *Aksoy v. Turkey*, ECtHR, App. No. 21987/93, Judgement, 18 Dec 1996 – **Attachment 4**
62. *Lawless v. Ireland (No. 3)*, ECtHR, App. No. 332/57, Judgement, 1 Jul 1961 – **Attachment 5**
63. *Twenty-One Detained Persons v. Germany*, ECtHR, App. Nos. 3134/67, 3172/67, 3188/67, 3189/67, 3190/67, 3191/67, 3192/67, 3193/67, 3194/67, 3195/67, 3196/67, 3197/67, 3198/67, 2199/67, 3200/67, 3201/67, 3202/67, 3203/67, 3204/67, 3205/67, 3206/67, Decision, 6 Apr 1968 – **Attachment 6**
64. *Kalaç v. Turkey*, ECtHR, App. No. 20704/92, Judgment, 1 Jul 1997 – **Attachment 7**

65. *Gündüz v. Turkey*, ECtHR, App. No. 59745/00, Décision sur la recevabilité, 13 Nov 2003 (“*Gündüz* Admissibility Decision”) – **Attachment 8**
66. Owen Bowcott, ‘Osama bin Laden: US responds to questions about killing’s legality’, *The Guardian*, 3 May 2011, available at <http://www.theguardian.com/world/2011/may/03/osama-bin-laden-killing-legality> – **Attachment 9**
67. ‘Statement by the President on the Death of Taliban Leader Mansur’, The White House, 23 May 2016, available at <https://www.whitehouse.gov/the-press-office/2016/05/23/statement-president-death-taliban-leader-mansur> – **Attachment 10**
68. Michael S. Schmidt and Mark Mazzetti, ‘A Top ISIS Leader is Killed in an Airstrike, the Pentagon Says’, *The New York Times*, 25 Mar 2016, available at http://www.nytimes.com/2016/03/26/world/middleeast/abdalrahmanmustafaalqaduliisisreportedkilledinsyria.html?_r=0 – **Attachment 11**