



The Court Report

The Extraordinary Chambers in the Courts of Cambodia

Moving forward through justice



First day of hearings on topic 4, Security Centers and Internal Purges, Civil Party Uch Sunlay appears before the Trial Chamber on 2 March 2016. Photo Nhet Sokheng

Hearing on 4th Topic in Case 002/02: Security Centers and Internal Purges

On 2 March 2016, The Trial Chamber began hearing the fourth topic of Case 002/02 introducing evidence to the allegations against the two accused. Nuon Chea and Khieu Samphan are allegedly responsible for the implementation of security centers and internal purges.

The alleged purpose of the security centers was to detain and reeducate or execute people considered by the regime to be belligerent to the Communist Party of Kampuchea (CPK). By the end of the regime, security centers had allegedly become ubiquitous throughout Cambodia. About 200 security

centers and countless more executions sites are alleged to have been established by the CPK.

Throughout proceedings on this topic, the Trial Chamber will hear evidence concerning three different security centers, namely Au Kanseng Security Center, Phnom Kraol Security Center, and S-21 (also known as Tuol Sleng).

Hearings on the topic of security centers and internal purges continued throughout the month of March, interspersed with tes-

▲ Continued to page 2

In this issue

News & Notes

2-3



Judicial Updates

4-8



Testimonies of Witnesses and Civil Parties in Case 002/02 in February

9-10

Decisions/Orders

10

February Outreach Activities

11

Contact Information

12

Hearing on 4th Topic in Case 002/02: Security Centers and Internal Purges (continued)

Continued from page 1
 timony heard by two expert witnesses: Mr. Alexander Hinton Laban and Mr. Ysa Osman.

Following the conclusion of topic number four, topic number five will commence to hear allegations relating to the practice of forced marriage that occurred under the Khmer Rouge regime. Following this, the

next topic will hear evidence on the conflict between Cambodia and Vietnam. The final segment of Case 002/02 will hear evidence relating to the roles of both the accused, Nuon Chea and Khieu Samphan during the period of Democratic Kampuchea. These hearings are expected to conclude this year, with a judgement following in 2017.

The Accused Undergo Medical and Psychiatric Evaluation

On 7 March 2016, the Trial Chamber has ordered an expert medical and psychiatric evaluation of the Accused to verify that Nuon Chea and Khieu Samphan remain fit to stand trial. These standard assessments had taken place four times in the past, each time finding the respective Accused capable of meaningful participation in Case 002. The most recent decisions, issued on 18 February 2015, were based on expert examinations conducted in January 2015 during which the experts found no evidence that either Accused had any cognitive impairment beyond what would be expected for men of their age and background. However, the experts noted that it is likely that the memory and cognitive function of both Accused would deteriorate further with age and recommended that both Accused undergo regular reviews of their cognitive function.

The Trial Chamber has appointed Dr. Kin Ming Chan, a geriatrician, and Dr. Huot Lina,

a psychiatrist, to assess Nuon Chea and Khieu Samphan for their fitness to stand trial and to report their findings to the Trial Chamber. Their work will involve a thorough examination of previous expert and medical reports and, as needed, consultations with other medical and psychiatric experts who have previously reported the condition of or treated each Accused during their detention by the ECCC, as well as an examination of each Accused in order to determine his level of physical and cognitive ability and give a prognosis therefor. Furthermore, the experts are asked to identify in their reports any and all additional testing ordered and to then report to the Trial Chamber on the results of the examinations and consultations in respect of each Accused.

The examination of the Accused will take place on 25 and 26 July 2016; a written report for each Accused will be finalized in English by 27 July 2016.



Khieu Samphan escorted by security guard entering the Court Room. 17 February 2016, Case 002/01 Appeal Hearings. Photo Mark Peters



Ao An, aka Ta An, is photographed during an interview in 2011. Photo Courtesy DC-CAM.

New Charges in Case 004

Following the investigation in case 004, Ao An, alias Ta An, was charged on 14 March 2016 with additional alleged crimes including genocide of the Cham.

A statement of the International Co-Investigating Judge announced the new charges in addition to standing charges of premeditated homicide and crimes against humanity, laid a year earlier during Ao An's Initial Appearance. According to the statement the alleged crimes were committed on several locations, including a number of sites discussed in previous court hearings.

Through his lawyers Ao An participates in the investigation and has gained access to the case files since his Initial Appearance on 27 March 2015.

Mr. Yim Tith, the second accused on case 004, was formally charged on 9 December 2015 with alleged crimes of genocide of the Khmer Krom, crimes against humanity, grave breaches of the Geneva Conventions of 1949 and premeditated homicide. Investigations in the case continue.

Expert Witness Mr. Ysa Osman

In February, Cambodian scholar Mr. Ysa Osman appeared before the Trial Chamber as expert witness to testify on the treatment of the Cham during the government of Democratic Kampuchea, a period that inspired his research at the Documentation Center of Cambodia (DDCAM). Mr. Ysa Osman provided an insightful account of Cham communities and the persisting effects of alleged Khmer Rouge policies restricting Cham culture.

Mr. Ysa Osman was born in 1971 to a Cham family in Svay Khleang Village, Krauch Chhmar district in Kompog Cham province. A year later the Khmer Rouge invaded the village. Under Democratic Kampuchea government the Cham mobilized against the Khmer Rouge but the rebellious movement was overpowered and villagers were forced to relocation camps. The expert estimates some 75% of the population of Svay Khleang died during the years 1975 to 1979, including several relatives.

In the years following the Vietnamese liberation Mr. Ysa succeed in his education completing high school and Quran studies by 1992. Since then he has become an active member of the Cham community involved in education projects in Cambodia.

Since 2005 this expert is the Project Coordinator of NGO Cambodia Village Scholars Fund,

where he manages English language and Cham language programs for ethnic minorities in rural areas, as well as university scholarships. He also partnered with GO Campaign, a US organization supporting "local heroes", to lead further education projects in his local community of Svay Khleang Village.

His written work includes two books, several newspaper and magazine articles, and the monthly issue of Champasa Newspaper where he reports on history and current affairs of Cham people.

Mr. Ysa Osman's connection to the ECCC is previous to his testimony in February 2016 for his role as an Analyst and Data Coder at the Intelligence Analysis Unit of the ECCC. Also, an excerpt of his book, Justice for the Cham Muslims under the Democratic Kampuchea Regime, was filed by the Victims Support Section as a court document in Case 001. Mr. Ysa Osman was scheduled to resume his testimony in March 2016.

Read further about Mr. Ysa Osman's testimony on page 9.



Expert Witness Mr. Ysa Osman appeared before the Trial Chamber on February 9 and 10, 2016. Photo Nhet Sokheng

Report Findings on Media Outreach and Survivor Engagement for Case 002

The WSD HANDA Center for Human Rights and International Justice at Stanford University together with the East-West Center has published a report that was produced as part of an evaluation of a two-year USAID-funded project, entitled "Voices for Reconciliation: Promoting Nationwide Dialogue on the Khmer Rouge Past through the Mass Media and Community-Level Survivor Networks", implemented with the Cambodian Human Rights and Development Association (ADHOC), Khmer Mekong Films (KMF), and the Cambodian Defenders Project (CDP).

The report publishes key findings about perceptions of the ECCC and the justice system since the Case 002/01 trial concluded, and outlines important lessons learned for media outreach and the use of networks and target groups (ADHOC's Civil Party Scheme) in outreach activities. The results are based on interviews conducted with a non-random sample of 101 Civil Parties and 38 out of 46 CPRs who participated in the Project. To complement the survey, four focus group discussions, including a total of 18 wom-

en and 14 men, were conducted in four different provinces around the country in July 2015.

Key findings:

Awareness of the ECCC and sources of information:

Over 80% of Civil Party respondents had attended live proceedings at the ECCC;

Over 80% of respondents (Civil Parties and Civil Party Representatives) felt at least moderately informed about the ECCC;

Media remains an important source of information about the ECCC (TV and radio), although ADHOC was identified as the main source of information amongst respondents (Civil Parties: 70.3%, Civil Party Representatives: 84.2%).

Perception of the ECCC and the justice process:

The majority of respondents believed the ECCC would bring justice to victims of the Khmer Rouge and/or their family and over 80% of respondents felt that the trial in Case 002/01 was conducted fairly;

Over 80% of respondents felt that the ECCC

has already helped reconciliation in their community;

The Civil Party Representatives tended to have more knowledge and understanding about the trials than the Civil Parties interviewed, and less favourable attitudes towards the ECCC and the national court system.

Outreach and community engagement:

A majority of respondents reported that the community meetings held by ADHOC and CDP gave them opportunities to talk about what happened during the Khmer Rouge regime, a sense of justice and more trust in the law;

Over 90% of respondents said that participating in the community meetings gave them hope for the future;

Over 95% of respondents said that outreach films were helpful to help them understand information and keep their attention.

The full report can be accessed at: www.krt-monitor.org and handacenter.stanford.edu.

By Melanie Hyde, Director, Cambodia Programs, WSD HANDA Center for Human Rights and International Justice, Stanford University.

"Over 80% of respondents felt that the ECCC has already helped reconciliation in their community"

Supreme Court Chamber

In February, the Supreme Court Chamber resumed the appeal hearing in case 002/01, which took place on 16, 17 and 18 February in the main courtroom of the ECCC. On 16 February, the hearing was opened by the President of the Supreme Court Chamber, who explained that, in order to ensure an efficient use of time, the Supreme Court Chamber decided to split up the appeal hearing into six thematic sessions, grouping the various grounds of appeal.

On 16 February, the Supreme Court Chamber heard arguments from Khieu Samphân and the Co-Prosecutors during the first thematic session, which addressed the grounds of appeal concerning the fairness of proceedings and the constitutionality of the Internal Rules. Also on 16 February, the Supreme Court Chamber heard arguments from Khieu Samphân, the Civil Party Lead Co-Lawyers and the Co-Prosecutors during the second thematic session, concerning the grounds of appeal related to the overall approach to evidence adopted in the case 002/01 trial judgement.

On 17 February, the Supreme Court Chamber heard submissions from Khieu Samphân and the Co-Prosecutors during the third and fourth thematic sessions, which concerned the grounds of appeal related to the crimes for which Nuon Chea and Khieu Samphân were convicted and the grounds of appeal related to the individual criminal responsibility of the accused, respectively.

On 18 February, the Supreme Court Chamber heard arguments from Khieu Samphân and the Co-Prosecutors during the fifth thematic session, which concerned grounds of appeal relating to the sentence imposed on Khieu Samphân. Also on 18 February, the Supreme Court Chamber heard submissions from the Co-Prosecutors and Khieu Samphân during the final thematic session, which related to the appeal by the Co-Prosecutors against the case 002/01 trial judgement. After hearing the parties' final submissions and a personal address from Khieu Samphân, the President of the Supreme Court Chamber closed the appeal hearing on 18 February.

In addition, on 8 February, the Supreme Court Chamber notified the parties of the time limit by which to submit responses to a request filed by Nuon Chea on 5 February for reconsideration of the Supreme Court Chamber decision not to summons Heng Samrin and Robert Lemkin and not to admit evidence produced by Robert Lemkin on appeal. On 9 February, the Co-Prosecutors responded to Nuon Chea's request. On 11 February, the Supreme Court Chamber denied Nuon Chea's request, considering that the request merely



Public Participants observe the hearing in Case 002/02 during February 2016 in The ECCC public gallery. Photo Nhet Sokheng

replicated arguments already made in earlier motions and failing to see any compelling reasons to reconsider its original decision.

Consideration of the respective appeals by the Defence and the Co-Prosecutors against the case 002/01 trial judgement continues.

Trial Chamber

The Trial Chamber sat for 9 hearing days in February 2016, which included three days for the presentation of key documents and the first day of hearings on harm suffered by Civil Parties. During this month, the Chamber heard 3 witnesses, 3 Civil Parties and 1 expert.

On 1 February 2016, the Trial Chamber issued an oral ruling granting the International Co-Prosecutor's motion to admit into evidence three written records of interview related to the testimony of 2-TCW-989, with written reasons to follow.

On 2 February 2016, the Trial Chamber issued an oral ruling admitting six documents into evidence as requested by the Co-Prosecutors for use during the questioning

of 2-TCW-1008. The Chamber also admitted three documents requested by the NUON Chea Defence. The Chamber will issue its written reasons for this ruling in due course.

On 4 February 2016, the Trial Chamber issued a memorandum informing the parties of its scheduled judicial recesses for 2016.

On 5 February 2016, the Trial Chamber issued a written decision on the use of evidence obtained through torture. The Trial Chamber found that the Convention against Torture sets forth universal norms of international law and that Article 15 of the Convention generally prohibits the invocation of evidence obtained through torture in any proceedings. It further found that the Cambodian Code of Criminal Procedure prohibits the Chamber from ascribing any weight to torture-tainted evidence at the judgement drafting phase and that statements from security centres, which are presumed to be torture-tainted, may not be invoked unless it is established that the statement was not obtained through torture or that the proposed use of the statement falls within the exception contained in Article 15. The Chamber reaffirmed that the exception to the Article 15 exclusionary rule permits the use of torture-tainted evidence

for purposes other than proving the truth of the matter asserted in the statement. Judge Fenz dissented from this last finding, with written reasons to follow.

Also on 5 February 2016, the Trial Chamber issued a memorandum outlining modalities for the testimony of expert YSA Osman (2-TCE-95), an author and researcher on the Cham during the Democratic Kampuchea era, currently working as an analyst for the Office of Co-Investigating Judges. The Chamber noted the request of the International Co-Investigating Judge (1) to prohibit questions related to the Case 004 investigation and (2) to have an OCIJ legal officer present during YSA Osman's testimony to advise him not to answer any such question. The Chamber decided, based on a review of international jurisprudence, that the Chamber has discretion to order the requested measures. It granted permission for an OCIJ legal officer to be present during the testimony, directing that this legal officer must not intervene unless matters concerning confidentiality of the Case 004 investigations arise. The Trial Chamber noted that if issues regarding the confidentiality of the investigations were raised during YSA Osman's testimony, it would consider

whether it would be appropriate to hear YSA Osman's remaining testimony in closed session.

Also on 5 February 2016, the Trial Chamber issued a memorandum denying, with reasons to follow, the NUON Chea Defence's request to reconsider its decision denying the NUON Chea Defence's earlier motion to admit into evidence Chapter II of a Human Rights Watch report entitled "30 Years of Hun Sen: Violence, Repression, and Corruption in Cambodia" and to admit into evidence Chapters III and IX of this report.

On 8 February 2016, the Trial Chamber issued a memorandum partially granting the NUON Chea Defence's two Internal Rule 87(4) motions to admit into evidence a total of 29 documents relevant to the testimony of YSA Osman (2-TCE-95). The Chamber admitted 18 of the proposed documents into evidence, with written reasons to follow.

On 18 February 2016, the Trial Chamber issued the written reasons for its decision rejecting the KHIEU Samphan Defence's motion to reverse its decision to hear witness 2-TCW-987. The KHIEU Samphan Defence argued that it did not have sufficient time or resources to prepare for the testimony of

2-TCW-987, a witness who had been interviewed as part of the Case 004 investigation, because none of the parties had requested the witness and because the Trial Chamber called him on its own motion on short notice. The Chamber noted that 2-TCW-987's Case 004 written record of interview had been disclosed to the Defence in March 2015 and that the Chamber had postponed the testimony of 2-TCW-987 such that the witness testified over four months after the parties were first notified that he had been selected. Considering the additional time accorded to the parties, the Chamber ruled that its decision to hear 2-TCW-987 on its own motion did not violate the rights of the Accused and denied the motion.

Also on 18 February 2016, the Trial Chamber issued a memorandum on the International Co-Prosecutor's request to admit into evidence 25 written records of interview and Civil Party applications from Cases 003 and 004 disclosed in Case 002/02 relevant to the treatment of the Cham. The Chamber had admitted four of these statements during trial proceedings and in this regard the request was moot. The Chamber found the remaining documents submitted were relevant to the treatment of the Cham, including, but not limited to, detentions, disappearances, executions of Cham people in different districts of Democratic Kampuchea, and the alleged existence of a policy targeting this group. The statements were also reliable as they were obtained by the International Co-Investigating Judge. The Chamber therefore granted the International Co-Prosecutor's motion, admitting all 21 remaining documents into evidence.

On 19 February 2016, the Trial Chamber sent to the Amsterdam Bar Association an addendum to the Chamber's 11 December 2015 notice of defence counsel Victor Koppe's possible misconduct during court proceedings. The addendum concerned an interview with Victor Koppe printed in the 3 February 2016 edition of the Mekong Review and reproduced in part in the Cambodia Daily in which he made a public personal attack on one of the judges of the Trial Chamber.

On 23 February 2016, the Trial Chamber issued a memorandum providing written reasons for its oral decision of 13 January 2016 to hear witnesses 2-TCW-894 and 2-TCW-938 in closed session. The Chamber noted that, as recognised both in the ECCC Law and under international law, the right to a public hearing is not absolute and that in exceptional circumstances where the interests of justice so require, a court may decide to close the proceedings from the public. The Chamber accepted the assertion of the International Co-Investigating Judge that the disclosure of these two witnesses' evidence in open session, even under a pseudonym, would be

detrimental to ongoing investigations. The Chamber therefore found that the testimony of 2-TCW-938 and 2-TCW-894 should be heard entirely in closed session. However, the Chamber found that any restriction to the public nature of the proceedings must be limited to those strictly necessary in the interests of justice. It therefore noted that in order to maximize the public nature of these hearings, the Chamber would redact the closed session transcripts in consultation with the International Co-Investigating Judge.

On 23 February 2016, the Trial Chamber issued a memorandum on the Lead Co-Lawyers' request to admit a written record of interview into evidence. Noting that the Chamber had previously admitted this document into evidence as a result of a motion filed by the International Co-Prosecutor, the Chamber found the Lead Co-Lawyers' request to be moot.

Also on 23 February 2016, the Trial Chamber orally granted the International Co-Prosecutor's motion to admit the written record of interview of a Civil Party into evidence in anticipation of the key documents hearings, with written reasons to follow.

During the month of February, the Trial Chamber also addressed a number of issues in memoranda which were filed confidentially.

Pre-Trial Chamber

During the month of February the Pre-Trial Chamber notified its decisions on cases PTC 03/22 and PTC 03/24. The decision on PTC 03/22 is available on the ECCC website.

The Chamber completed the preparations for deliberations on three appeals, including: an appeal against the International Co-Investigating Judge's Re-Issued Decision on MEAS Muth Motion to Strike the Supplementary Submission (PTC 03/26); an 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 Command Responsibility (PTC 03/29); and an appeal against the Order on AO An's responses D193/47, D193/49, D193/53, D193/56 and D193/60 (PTC 04/25).

The Chamber advanced the preparations for deliberations on two other motions, including: an application for Annulment of Investigative Action Concerning Forced Marriage (PTC 04/21); and a "Request For The Pre-Trial Chamber To Take A Broad Interpretation Of The Permissible Scope Of Appeals Against The Closing Order and To Clarify The Procedure For Annulling The Closing Order Or Portions Thereof If Necessary" (PTC 03/27).

The Chamber was fully briefed and started preparations for deliberations on three



High School Students observed the hearing in Case 002/02 during March 2016 in The ECCC public gallery. Photo Nhet Sokheng

motions for annulment, two of which were forwarded by the International Co-Investigating Judge on 4 November (PTC 03/28); another one on 19 November (PTC 04/23); and on two appeals, including: an appeal against the International Co-Investigating Judge's Decision on AO An's fifth request for investigative action (PTC 04/24); and an Appeal, filed on 12 January 2016, of MEAS Muth Against International Co-Investigating Judge's Decision on MEAS Muth's nine Applications to seize the Pre-Trial Chamber with requests for Annulment pursuant to Internal Rule 76(2) (PTC 03/28).

As of 3 December 2015, the Chamber has completed deliberations and decided on appeals against the International Co-Investigating Judge's Decisions to Charge in absentia (PTC 04/19 and PTC 03/21). The decision on PTC04/19 was notified to the parties during the next reporting period, on 2 March 2016. The decision on PTC03/21 is to be released soon.

At the end of February 2016, the Chamber was seized of a total of twelve appeals and motions relating to the investigations in cases 003 and 004.

Office of the Co-Investigating Judges

During the month of February, the international side of the Office of the Co-Investigating Judges ("OICIJ") continued the investigations of Case Files 003 and 004. Two field missions took place in Case File 003, in the

course of which seven witnesses were interviewed, two investigation action and one site identification reports were drafted. In Case File 004, six field missions were carried out, generating 27 interviews and six investigation action reports. Seven witnesses were interviewed at the ECCC premises in Case File 003 and nine in Case File 004.

During the month of February, the Analysts Unit reviewed several thousand KR contemporaneous documents and witness interviews. Additionally, the Analysts Unit assisted and participated in all field missions carried out during this period.

The supplementary information and civil party applications in Cases 003 and 004, which presently total in excess of 2,345, are progressively being placed on the case files. Their evidentiary value is subjected to a thorough scrutiny by analysts, investigators and legal officers, to assess their admissibility and relevance to both case files.

Office of the Co-Prosecutors

In February, staff and interns of the Office of the Co-Prosecutors were engaged across all four cases, with the final oral appeal hearing in Case 002/01, continued trial hearings in Case 002/02 as well as the ongoing investigations in Cases 003 and 004.

Case 002/01

In advance of the rescheduled oral appeal hearing, the Co-Prosecutors requested to rely on additional authorities in order to fully assist

the Supreme Court Chamber in addressing the issues on appeal. The Co-Prosecutor's also responded to Nuon Chea's request for reconsideration of the Supreme Court Chamber's decision not to summons particular witnesses and admit certain evidence on appeal. During the three-day hearing, the Co-Prosecutors made submissions on various topics, including the fairness of the trial proceedings, the applicable definition of crimes and modes of liability at issue in the case and the individual responsibility of Nuon Chea and Khieu Samphan.

Case 002/02

Trial hearings continued with a short adjournment for the appeal hearing in Case 002/001. Witnesses, including an expert witness and civil parties were heard in relation to the segments of the trial dealing with the genocide of the Vietnamese and the Cham. Additionally, the Trial Chamber held a document hearing at which key documents relating to these trial segments were presented.

Case 003

Review and analysis of the evidence collected by the Co-Investigating Judges was ongoing. Further, the International Co-Prosecutor confidentially responded to ten separate applications by Meas Muth, and confidentially filed a request to the Pre-Trial Chamber.

Cases 004 and 004/01

Review and analysis of the evidence collected in the investigations against the three

Charged Persons continued. Additionally, in Case 004, the International Co-Prosecutor filed a confidential response to Ao An's filing, while in Case 004/01, the International Co-Prosecutor filed a confidential request to the Co-Investigating Judges.

Defence Support Section

Case 002

NUON Chea

On 4 February 2016, the NUON Chea Defence filed a request to the Supreme Court Chamber for it to reconsider its October 2015 decision not to admit defence witnesses and evidence on appeal in Case 002/01. The Defence's request sought the appearance of key witnesses HENG Samrin, a top-ranking Khmer Rouge military commander and current National Assembly president, and Robert Lemkin, the Enemies of the People filmmaker. The Defence also sought to admit notes and interview transcripts produced by Lemkin in the course of the film's production. In the alternative, it requested that the Chamber provide a summary of reasons for its October 2015 decision. On 11 February, the Chamber announced that it would neither reconsider, nor provide reasons for, those decisions at this stage. As a consequence, Mr NUON Chea advised the Defence not to actively participate in the appeal hearings, which took place from 16 to 18 February, and to instead rely on the submissions it made in its substantive appeal brief filed in December 2014.

In February 2016, the NUON Chea Defence remained fully engaged in the trial proceedings in Case 002/02, which continued to focus on the treatment of targeted groups. On 2 and 3 February 2016, the Defence filed a series of requests seeking to admit into evidence a total of 29 documents which it intends to use in the cross-examination of Mr. Ysa Osman, an expert witness on the treatment of the Cham. The documents relate to Mr. Osman's background, independence and impartiality, as well as the subjects of death tolls, the Khmer Sar and Khmer Serei movements, and Mr. Les Kosem, a Cham general in the Lon Nol regime. The Trial Chamber admitted nearly two-thirds of these documents into evidence.

KHIEU Samphan

In February 2016, the KHIEU Samphan Defence prepared and attended the hearings in Case 002/02, including witness testimony regarding the treatment of former Khmer Republic officials, the treatment of the Vietnamese, and 'expert' testimony on the treatment of the Cham. Further, the Defence prepared and attended 'key document' presentation hearings concerning the treatment of targeted groups and hearings on harm suffered by Civil Parties in relation to the treatment of the Cham.

Mid-February 2016, the KHIEU Samphan Defence also prepared and attended the appeal hearing in Case 002/01. Over the three days provided for this hearing the Defence was afforded approximately three hours total to present its pleadings. During this time the Defence could only respond to the questions raised by the Supreme Court Chamber in regards to its order setting the timetable for the hearing (F30/4) and present a few examples of the Defence's numerous grounds of appeal. At the completion of the hearing, Mr KHIEU Samphan had the opportunity to make a brief statement, in which he reiterated that he never intended to commit any crime.

Case 003

MEAS Muth

In February 2016, the MEAS Muth Defence filed seven replies to the Pre-Trial Chamber. These replies were in response to one appeal and a number of annulment requests which are currently classified as confidential. The Defence also requested that one of its motions to the Co-Investigating Judges, as well as the International Co-Investigating Judge's decision on the motion, be reclassified as public, as they contain no confidential information relevant to the ongoing judicial investigation. The Defence continues to review material on the Case File and to file submissions where necessary to endeavour to

protect Mr. MEAS Muth's fair trial rights.

Case 004/01

Ms. IM Cheam

In February 2016, the IM Chaem Defence submitted a request for clarification on the law to the Office of the Co-Investigating Judges should there be a disagreement between the Judges when issuing the closing order. The Defence also requested the Co-Investigating Judges to seize the Pre-Trial Chamber with a view to annulling various transcripts and written records of witnesses' interviews. Further, the Defence responded to the International Co-Prosecutor's request to place a large number of documents on the Case File, and the request was subsequently denied. Finally, the Defence continues to review the evidence in the Case File in order to further prepare their client's defence and endeavour to safeguard Ms. IM Cheam's fair trial rights.

Case 004

Mr. AO An

In February 2016, the AO An Defence filed an application to the Office of the Co-Investigating Judges to seize the Pre-Trial Chamber with a view to annulling the investigation of two crime sites alleged in the Third Introductory Submission. The Defence further submitted two requests for investigative action. The Defence continues to review the evidence in the Case File, prepare submissions and endeavour to safeguard Mr. AO An's fair trial rights.

Mr. YIM Tith

In February 2016, the YIM Tith Defence continued to analyse the contents of the Case File in order to participate in the investigation, prepare Mr. YIM Tith's defence and endeavour to protect his fair trial rights.

Civil Party Lead Co-Lawyers Section

The Lead Co-Lawyers for Civil Parties continued to represent the consolidated group of civil parties in the court room, facilitating the examinations and putting questions to three witnesses and one expert who testified about the treatment of targeted groups during the DK.

On the direction of the Supreme Court Chamber, the Lead Co-Lawyers liaised with the Victims Support Section to bring 14 Civil Parties per day to the ECCC to attend the case 002/01 appeal hearings held on 16, 17 and 18 February 2016. During the appeal hearings, the Lead Co-Lawyers made submissions representing the interests of the consolidated group of civil parties.

The Lead Co-Lawyers presented statements of civil parties who suffered as a result of the treatment of targeted groups during the key documents hearing, held 23-25 February 2016.

On 10 February 2016, the Lead Co-Lawyers filed their submissions related to the hearing on harm suffered by civil parties in relation to the treatment

of targeted groups. The hearing began on 29 February, 2016 with two civil parties, Meu Peou and Man Sles testified as to the harm they suffered as a result of the DK's treatment of the Cham, and one civil party, Sieng Chanthy, began testifying about her and her family's experience in Svay Rieng as a result of the DK's treatment of the Vietnamese.

Outreach and Activities

The Together with the Victims Support Section and their NGO partners, the Lead Co-Lawyers continued to participate in the development of reparation projects for case 002/02 and the implementation of judicial reparation projects for case 002/01.

The Lead Co-Lawyer section participated in the UN Women Focal Person Training on Sexual and Gender Based Violence held in Phnom Penh on 19 February 2016, and the Lead Co-Lawyers gave a presentation on the Regulation of Marriage at the ECCC.

The Lead Co-Lawyer section attended the Youth Resource Development Program consultation in relation to reparation project development with 8 civil parties on 25 February 2016. The section also attended reparations consultations held by the Cambodian-German Cultural Association, Khmer Action Arts, CHRAC and Youth for Peace with 59 civil parties on 27 and 28 February 2016.

Victims Support Section

Legal representation

As the evidentiary hearings of Case 002/02 still continued, the ECCC-funded Civil Party Lawyer team fully participated in all hearings and reviewed case files of witnesses and civil parties needed to be examined. More importantly, the lawyer team participated in the concluding appeal hearing of Case 002/01 heard by the Supreme Court Chamber during the month. They also participated in the meeting between Lead Co-Lawyers Section and Civil Party Lawyers on reparation requests in Case 002/02 and Proposed Reparation Project Consultation organized by Cambodia Human Rights Action Committee (CHRAC).

Processing and analysis

The Processing and Analysis Team (PAT) continued to collect supplementary information in Case 003 & 004 through phone calls made to applicants having been suffered from alleged crimes under the investigation scope of Case 003 and 004. Additionally, the team filed one letter requesting for continuing civil actions of the deceased civil party to the Trial Chamber.

Reparations and non-judicial measures

During the month, the reparation team members participated in the following:

- On 11 February, the team's member participated in a fundraising meeting organized by Khmer Art and Swiss Agency for Development and Cooperation (SDC) at SDC office to raise fund for Khmer Art's Case 002/02 reparation request. The meeting involved several donors and relevant stakeholders.

- From 11 to 13 February, the team's member had participated in a workshop on "Reflecting Memorial Sites" organized by Toul Sleng Genocide Museum. The workshop took place at Toul Sleng Museum with around 25 participants from Youth for Peace, Kdei Karuna, Toul Sleng Genocide Museum and other national and international organizations.

- The team's members had a few meetings with Lead Co-Lawyer Section to discuss Case 002/02 reparation requests so as to develop brochure and strategy for fundraising campaign.

Under the financial support of the United Nation Trust Fund to End Violence against Women, Victims Support Section organized the Focal Point Meeting at Phnom Penh with more than one hundred and forty-five participants and the participations of VSS, Civil Party Lead-Co Lawyers, TPO and UN Women Country Office Representatives as speakers.

The purposes of the meeting were (i) to reflect the result from the first phase project implementation, (ii) to inform focal point about the developments of the ECCC pertaining to SGBV, therefore, they can disseminate their knowledge which they learned from the meeting to civil parties in their communities; and (iii) to discuss the future steps in supporting GBV Civil Parties in Case 002 to ensure that Focal Persons are capable of assisting VSS's works and can facilitate communication with GBV Civil Parties in Case 002 within their respective communities/provinces throughout the country.

Outreach

During the month, Victims Support Section invited 116 civil parties from Kandal, Kampot, Pursat, Preah Sihanouk, Takeo, Prey Veng, Kampong Speu, Siem Reap, Rattanak Kiri, Kampong Cham, Kampong Chhnang, Banteay Maenchey, Phnom Penh and Battambang to attend hearings of Case 002/02 at the ECCC. At lunch break of each hearing day, they were also arranged to meet with their lawyers to be briefed on what already happened and what would be discussed in the court. After the hearing ended in each day, Judgment Books of Case 002/01, radios and VSS newsletters were distributed to those CPs.

As usual, 10 CPs were arranged to sit in the Courtroom along with their lawyers and the rests were in the public gallery

Witness testimonies in Case 002/02 resume

With a break during the third week of the month for oral submissions of the Appeal Hearings in Case 002/01, the Trial Chamber continued in February the testimonies of witnesses and civil parties on the treatment of minorities and ethnic groups during the period of Democratic Kampuchea.



2-TCW-989: Mr. SAO Van (alias Pok), 1 & 2 February

Mr. SAO Van, born in 1941 Takéo Province, Tram Kak District was a member of the Communist Party of Kampuchea (CPK). Prior to testifying in Case 002/02, he was also called as a witness during the appeal hearings in Case 002/01 in July 2015. In 1976 he was appointed commune chief in Kampong Svay in Kien Svay District. He was questioned about food rations in the different places he lived during the DK regime. According to the witness, food was insufficient some places, whereas in other places sufficient food was available. As a CPK official he attended a number of meetings including one he recalled where instructions were given not to harm former Lon Nol soldiers of a certain rank. He never witnessed the mistreatment of soldiers from the former regime. He further elaborated on the structure of the CPK in his province. Questioned about the treatment of the Vietnamese in 1975, the witness explained that the five Vietnamese families living in his commune was to be gathered at a pagoda and sent back to Vietnam, and that there were instructions not to harm them or their property. He also said that his brother was identified as a former Lon Nol official and was sent to a re-education center.



2-TCW-1008: Mr. MEAS Voeun, testified on 2 & 3 February

Mr. MEAS Voeun, born in Srae Khlong village, Phnom Srok district, Kampong Speu province. Prior to testifying in Case 002/02 he was also called as a witness in Case 002/01. The witness was a

regiment commander when the Khmer Rouge forces took control over Phnom Penh in April 1975. After 1975 he was stationed for three years at Koh Kong as Deputy Commander of Division 1. In 1978 he was transferred to Preah Vihear. He described the CPK hierarchy and command structure in his division and in the west zone. His testimony covered the treatment of former Lon Nol soldiers and the treatment of the Vietnamese, as well as internal enemies and plans for internal coup d'état. The witness recalled instructions that former Lon Nol soldiers who raised a white flag were not to be harmed. According to the witness, Vietnamese and Khmer people were enemies before he was born, however, during the regime unarmed Vietnamese civilians were not considered enemies. When Vietnamese were captured after 1975, they were according to the witness sent to the upper echelon and he had no idea what happened to them.

2-TCW-849: Ms. In Yoeung, 3 February



Although Ms. In Yoeung cannot specify the exact year of birth, she estimates her date of birth to be 1960 – making her approximately 15 years old when Phnom Penh fell to the Khmer Rouge. Born in Chheu Phleung village, Svay Rieng province, she was transferred to Ro Prasoutr to work in a mobile unit at the beginning of the period of Democratic Kampuchea. Ms. In Yoeung provided testimony on a variety of topics including the treatment of Vietnamese, although



A group consisting of Civil Parties were invited to attend and observe court proceedings from inside the courtroom. Photo David Schostek

very briefly. The main focus of her testimony revealed living conditions in both mobile units and cooperatives, and relating to organized marriages. She stated in her testimony that she was required by "Angkar" (the regime) to marry, lest she be sent to a detention facility. She was also motivated to marry for the fact that upon being married she would be transferred from her mobile unit to a cooperative – where the living conditions were considered to be better. During her testimony, Ms. In Yoeung confirms that there was artillery fire near where she worked during the period of Democratic Kampuchea, near the border between Vietnam and Cambodia.

2-TCE-95: Mr. Ysa Osman, testified on 9 & 10 February



45 years of age at the time of his testimony, Mr. Ysa Osman appears before the Trial Chamber to provide evidence accrued during his years of research performed for the Documentation Center of Cambodia (DCCAM). The author of two books relating to the period of Democratic Kampuchea, titled Oukoubah, and another titled Cham Rebellion, along with several news and magazine articles, Mr. Ysa Osman offers the court valuable testimony, particularly relating to the experience of the Cham people during the Khmer Rouge regime. A Cham himself, Mr. Ysa Osman tells the court

that he lost most of his family during the years 1975-1979. His testimony provides insight into various aspects of Cham culture, including social hierarchy within the Cham communities. Testimony of the expert also recalls alleged policies implemented by the Khmer Rouge that allegedly dictated Cham people to renounce their culture and religion. The expert said impacts of KR policy during the DK regime are noted to have been severe, and has affected Cham culture to this day. Furthermore, during testimony the expert reveals the history of the Cham people, including the Champa kingdom, and how this historical relationship figures in the context of Democratic Kampuchea.

Read further about Mr. Ysa Osman on page 3.



Mr. Man and his father were part of a group of 50-60 Cham men to be arrested one day, as they were accused of being internal enemies and for taking part in a rebellion movement. Whilst the CP and most of the other men were released a week later, Mr. Man testified that his father, along with four other men with influential roles within the village, were never released.

2-TCCP-105: Ms. SIENG Chanthy, testified 29 February

55-year-old Ms. Sieng from Svay Rieng province stems from a mixed Khmer-Vietnamese family. As a Civil Party, she testified during the segment where Civil Parties were called to testify

about harm they suffered in relation to the treatment of alleged targeted groups; Cham, Vietnamese and former Lon Nol officials. She elaborated before the Chamber about her father's suicide, which had resulted from severe emotional distress during the Khmer Rouge regime. She explained the poor living conditions her family struggled with during that time.. Ms. Sieng reported that one of her brothers was arrested and heavily tortured following an incident where he had accidentally injured a cow while working on the fields, and that he another brother subsequently were killed. She also said she afraid that she would be raped and killed, because her father was Vietnamese.



Decisions/Orders

Public versions of the decisions, orders, opinions and considerations are available on the official ECCC website:

www.eccc.gov.kh/en/document/court

Supreme Court Chamber

8 February 2016: Decision Pursuant to Internal Rule 39(2), F2/10/1.

11 February 2016: Decision on NUON Chea's Request for Reconsideration of the Decision of 21 October 2015 on Requests for Additional Evidence, F2/10/3.

Trial Chamber

4 February 2016: Trial Chamber memorandum entitled: Trial Chamber Judicial Recesses during 2016 <E386>

5 February 2016: Decision on Evidence Obtained through Torture <E350/8>

5 February 2016: Trial Chamber memorandum entitled: Modalities of testimony for 2-TCE-95 <E367/6>

5 February 2016: Trial Chamber memorandum entitled: Decision on NUON Chea request to reconsider admitting one extract and to admit two additional extract from the Human Rights Watch Report '30 Years of HUN Sen' <E347/3>

8 February 2016: Trial Chamber memorandum entitled: Decision on NUON Chea's requests for admission of documents relevant to the testimony of 2-TCE-95 <E367/7>

18 February 2016: Trial Chamber memorandum

entitled: Decision on the KHIEU Samphan Defence's opposition to the appearance of 2-TCW-987 <E364>

18 February 2016: Trial Chamber memorandum entitled: Decision on International Co-Prosecutor's Request to Admit Written Records of Interview Relating to Treatment of Cham Pursuant to Rules 87(3) and 87(4) <E319/32/1>

19 February 2016: Addendum sent to the Amsterdam Bar Association: Possible misconduct of a lawyer admitted to your Bar Association – Mr. Victor KOPPE <E378/1>

23 February 2016: Trial Chamber memorandum entitled: Ruling on Closed Session for Witnesses 2-TCW-894 and 2-TCW-938 <E319/35/5>

23 February 2016: Trial Chamber memorandum entitled: Decision on Lead Co-Lawyers' request to admit one Written Record of Interview relating to treatment of Cham pursuant to Rule 87(4) <E315/1/5>

Pretrial Chamber

3 February 2016: PTC 03/22 the Chamber unanimously dismissed as moot an appeal against Co-Investigating Judge Harmon's Notification of Charges.

19 and 29 February: PTC 03/24 the Chamber notified the parties of, respectively, the English and Khmer language versions of a unanimous decision denying in its totality a request to reclassify as public certain submissions before the Chamber.

The ECCC continues its outreach efforts: February 2016



Spokesperson Pheaktra Neth gives a presentation to the Peace Corps during their visit to the ECCC on 8 February 2016. Photo Julian Sonntag

On Monday, 8 February, ECCC spokesperson Pheaktra Neth paid a visit to the Phnom Penh headquarters of the Peace Corps, a United States run volunteer program which sends Americans abroad for temporary volunteer teaching jobs. During his presentation in front of an audience of around 60 Peace Corps volunteers stationed all across Cambodia, Pheaktra spoke about the background and outlook of the Court, and encouraged the teachers to organize school visits and study tours to the ECCC for their students. Study tours usually involve visits to the S-21 Tuol Sleng Genocide Museum and the Choeung Ek Killing Fields Site as well as a visit to the ECCC, where the groups have the opportunity to observe a hearing session in the Public Gallery and receive further briefings on Court proceedings by representatives of the respective sections. School visits on the other hand involve one or more representatives of the ECCC travelling to schools in Cambodia to provide briefings and presentations about the Court on the spot. Many of the Peace Corps volunteers indicated that they had not heard of such opportunities before and showed great interest in setting up a trip.

Besides, the ECCC's Public Affairs section continued its efforts regarding its regular outreach activities and court visits for foreign delegations and Cambodian students and villagers.

01 February – 300 students from Kandal province came to visit the Court, observe Trial hearings and learn more about the ECCC.

02 February – A second batch of 300 students from Kandal province came to visit the Court and attended the sessions in the Public Gallery.

03 February – 250 students of Asian Euro University and 150 villagers from Takeo province paid a visit to the ECCC and observed the morning and afternoon sessions.

04 February – 300 villagers from Kampot province were brought to the ECCC to attend the morning and afternoon sessions and learn more

about the Court.

09 February – 300 villagers from Takeo Province came to visit the Court and follow the hearings in the Public Gallery.

10 February – Another group of 300 villagers from Kampot Province paid a visit to the ECCC and attended the hearings.

16 February – 200 villagers from Kampong Chhnang and 200 villagers from Kampot province visited the ECCC and observed the morning and afternoon sessions.

17 February – On this second day of the Appeal Hearings in Case 002/01, 80 students and teaching staff from the American University of Phnom Penh paid a visit to the ECCC. They observed the first session in the Public Gallery and then received briefings by representatives of Public Affairs and the Defence section to learn more about Court proceedings. On top of that, another 280 students from Phnom Penh came to visit the ECCC on that day.

18 February – 35 students and teaching staff from the National University of Management came to visit the Court, observed one session of the hearings in the Public Gallery and received a briefing by a representative of the Public Affairs section. Another 25 YRDP students and 450 students from Phnom Penh came to visit the ECCC on this final day of the Appeal Hearings in Case 002/01.

23 February – 200 villagers from Takeo Province came to visit the ECCC and attend actual Court hearings.

24 February – 100 students from RULE University paid a visit to the ECCC that day to attend the hearings and learn more about Court proceedings.



FIND OUT MORE ABOUT THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

The ECCC welcomes visitors. For more information: pas@eccc.gov.kh.



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