



# The Court Report

MAY 2013

## The Extraordinary Chambers in the Courts of Cambodia

*Moving Forward Through Justice*



*The Trial Chamber judges in the ECCC courtroom.*

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## TC Issues Written Decision on Case 002 Severance

Following oral announcement of the disposition of their decision in late March, which permitted the trial to resume at first opportunity, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia issued on 26 April its written decision on the severance of Case 002. This new severance decision was rendered after the Supreme Court Chamber on 8 February annulled the original severance of Case 002 in September 2011, asserting that Trial Chamber had provided insufficient reasoning for its previous decision and had failed to adequately consult the parties prior to making its decision.

The new decision on the severance of Case 002 was issued following submissions by all parties at hearings scheduled by the Trial Chamber in February and March. After having reconsidered the co-prosecutors' request to include crimes allegedly committed at S-21 within the

scope of the first trial, as well as the defence teams' opposition to any form of severance and request to try the Closing Order in its entirety, the Trial Chamber concluded it was in the interest of justice to sever the proceedings in Case 002.

In its written decision, the Trial Chamber emphasized that it was motivated by the advanced age and physical frailty of both remaining Accused, and concerns that the Chamber might otherwise be unable to conclude any verdict in Case 002. It had calculated that it may take months to accommodate the request from the co-prosecution to include allegations concerning S-21 within this trial, and years to complete the trial of the entirety of Case 002, as sought by the defence. As such, it ruled that the charges in the first trial of Case 002 will be limited to the alleged crimes against humanity related to the forced

*Article continues on page 2*

## Written Decision

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movement of the population from Phnom Penh and later from other regions (phases one and two), and execution of Khmer Republic soldiers at Toul Po Chrey execution site immediately after the Khmer Rouge takeover in 1975. Following the new severance order, the scope of the first trial in Case 002 remains as it was before the Supreme Court Chamber annulled the previous decision on severance in the case.

In a press release issued after the written decision, the Trial Chamber explained that in making its determination of the scope of the first trial in Case 002 it had taken into account the complexity and sheer size of the Closing Order in Case 002: "It [the Chamber] has been well aware that as the months slip by, the accused are less and less likely to

remain fit to stand trial until the point where any of the allegations against them can be determined finally. If there is no verdict at all in Case 002, the victims and the public will be deeply disappointed," the statement read. The Chamber explained that uncertainty regarding stable funding, the fragile health and advanced age of both Accused, and particularly of Nuon Chea, all influenced the decision not to hold a lengthy trial or to hear all the facts.

It also noted the diametrically opposed positions of the parties regarding which allegations to include within the first trial in Case 002. However, inclusion of the allegations related to population movement and the Tuol Po Chrey execution site potentially involved a very large number of victims, and also allow for an examination of the part played by each Accused in the development of policies related to these allegations. Trying these alleged crimes first also preserves the essential chronology of the Indictment.

The time required to conclude the hearing

of evidence in the first trial in Case 002 will depend on a number of factors, including the time required to conclude any further appeals, the health status of the Accused and confirmation that funding issues will not affect the availability of essential staff.

Following directions from the Supreme Court Chamber and the request of some parties, the Trial Chamber also attached a tentative plan for future trials to the severance decision. It stressed, however, that its ability to hold future trials is dependent on contingencies such as the continued fitness to stand trial of both Accused and continuous donor support to the ECCC.

The Trial Chamber will convene a trial management meeting in the last quarter of the year in order to provide the parties an opportunity to discuss the next steps.

The severance decision is available on the ECCC website:

<http://www.eccc.gov.kh/en/document/court/decision-severance-case-00201-following-supreme-court-chamber-decision-8-february-201>

## Khieu Samphan's Application for Re-



*Khieu Samphan examines a document during a hearing in Case 002.*

The Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia on 26 April rejected Khieu Samphan's 29 March application for immediate release on bail. After a hearing held on 11 April, the Trial Chamber ordered the continued detention of Khieu Samphan in order to ensure his presence during the proceedings (Internal Rule 63 (3) (b)(iii)).

In its submissions, Khieu Samphan's defence argued that the risks initially cited as justifying Khieu Samphan's provisional detention are now low or non-existent and can be

mitigated by appropriate judicial supervision upon his release. It submitted that the Accused has never attempted to flee and has attended proceedings when required. It is also unlikely that his ill-health will prevent him from attending hearings. At no stage has the Accused encountered any threat to his safety. Khieu Samphan's defence team further argued that the unlikelihood that the Trial Chamber will render its verdict soon results in an excessively long period of detention, in breach of the Accused's fundamental right to a fair and expeditious trial.

The co-prosecutors opposed the application, submitting that all prior justifications for Khieu Samphan's continued detention remain valid. They argued that Khieu Samphan's release would jeopardize his presence at trial, pose an unacceptable risk of interference with witnesses or other evidence in Case 002 and that there are reasonable concerns over the Accused's safety and disruption to public order. The co-prosecutors further submit that arguments concerning the length of the Accused's trial should be discounted in view of the large scale of Case 002, the passage of time since the crimes took place, the volume of evidence, the complexity of legal submissions and the number of objections and legal arguments filed by all parties. Accordingly, they argued, there has been no "undue delay in the conduct of proceedings."

In its reasoning, the Trial Chamber examined whether there has been a change of circumstances rendering provisional detention no longer necessary and whether the length of the Accused's detention remains proportionate to the particular circumstances of the case. The Trial Chamber found that there is still a risk that the Accused may not appear at trial if released (whether intentionally or otherwise), which, at this advanced stage of the proceedings, would delay the expeditious completion of the first trial in Case 002. It considered the assurances offered by the Accused and his family to be insufficient to outweigh these concerns and to warrant release. However, the Trial Chamber found that there is insufficient grounds to conclude that release would pose a material risk to the evidence in Case 002 or that the Accused's continued detention can be justified by any threat to his safety or to public order. The Trial Chamber held that Khieu Samphan's continued detention is not disproportionate to the circumstances of the case, which is "an enormous organizational and logistical undertaking," and has proceeded as quickly as possible and is now approaching its concluding phase. The Chamber noted that in cases of comparable complexity, provisional detention exceeding five years had been found justified before other courts and tribunals, including those trying international crimes.

## Civil Parties “Grateful” for Court, Still Hoping for Justice

For the May 2013 Court Report, Public Affairs spoke with a number of civil parties attending the hearings in Case 002. The interviews—edited for length and style—follow.



**Mr Chan Chanty**

46-year-old from Battambang province, bicycle repairman

*Can you tell me about your experience under the Khmer Rouge?*

My family was evacuated from our home and forced to move from one place to another. We had no apparent destination. Eventually, I was separated from my mother, then my father. I lost eight family members altogether. I survived under the regime raising pigs.

*What made you apply to be a civil party?*

I heard a radio announcement asking people to apply to be civil parties at the ECCC. After all, I suffered during the Khmer Rouge regime; I want to find justice. But, more than that, I want my children and all young people to understand the past, so they do not follow in the footsteps of the Khmer Rouge.

*What do you think about the work of the ECCC? What would make it a success, in your mind?*

First of all, I am very glad the court exists at all, considering that the crimes occurred 30 years ago! Of course, I am also worried about the court’s financial problems, as I’d like to see it fulfill its mandate.



**Ms Prak Sinan**

59-year-old from Kampot Province, teacher

*Can you tell me about your experience under the Khmer Rouge?*

I was a student when the Khmer Rouge took over. I was forced to work in unbearable heat in the fields. Most people starved to death, as we had nothing to eat—not even grass—and sometimes no water to drink. I lost every member of my family, except my mother. I was also tortured.

*How often do you attend the hearings? How do you feel when you’re here?*

I attend hearings quite often, as I am a civil party representative. I am very grateful that the court enables me to see the accused in person. We are almost sitting face-to-face.

*What do you think about the work of the ECCC? What would make it a success, in your mind?*

Thus far, I think the court has done its best with Case 001 and Case 002. Of course, the budgetary problems threaten to interrupt the work. I was also disappointed to see Ieng Thirith released. I fear the court may have to release another defendant in the future.



**Ms Chick Sopha**

57-year-old from Battambang Province, food vendor at a school

*Can you tell me about your experience under the Khmer Rouge?*

When the Khmer Rouge came to power, there was much starvation. Both my mother and father died in this way. My brother was a monk. He was defrocked and later killed. I was forced into marriage by the regime.

*What made you apply to be a civil party?*

I am very happy to have the chance to be a civil party. To be honest, I never expected a court like the ECCC would exist. Nor did I expect I would be able to participate and follow the proceedings! Of course, I want justice for myself, and I want to ensure that the next generation is able to live in peace.

*What do you think about the work of the ECCC? What would make it a success, in your mind?*

Even though the ECCC is slow, it is doing good work. I don’t think it has found justice for the victims yet, but I still have hope the ECCC will fulfill its mandate and deliver justice for people like myself.

# In The Courtroom

## Case 002

## Evidence Hearing

In April, the Trial Chamber sat for 10 days in Case 002 against the Accused Nuon Chea and Khieu Samphan. Six witnesses and one civil party appeared before the Trial Chamber.



### Chhaom Se

Testified 8 April

Mr Chhaom was a low-level commander in the Khmer Rouge military and worked as a chairman of the Au Kanseng detention centre. He answered questions about the evacuation of Phnom Penh and the Communist Party of Kampuchea's process to issue orders.

### Ung Chhat

Testified 29 and 30 April

Mr Ung, a former Khmer Rouge soldier, testified about what he witnessed in relation to the capture of Lon Nol soldiers and their transportation from the town of Pursat to the alleged mass execution site at Tuol Po Chrey.



### Francois Ponchaud

Testified 9-10 April

Mr Ponchaud is a priest who has been living in Cambodia for over 47 years. He was among the last group of foreigners to be expelled from Cambodia in May 1975, after having spent weeks in the French embassy compound. The author of the book *Year Zero*, he answered questions on the evacuation of Phnom Penh, and his encounters with Khieu Samphan as well as his interviews with soldiers and refugees inside and outside Cambodia between 1975 and 1979.



### Chhouk Rin

Testified 22 and 23 April

Mr Chhouk, a former Khmer Rouge army commander, testified about his interactions with Nuon Chea, the role of Khieu Samphan in the CPK and his understanding of the CPK command structure. Mr Chhouk also answered questions about what he witnessed during the evacuation of Kampot, the content and proceedings of CPK "study sessions" and the purges in his district.



### Sar Sarin, Civil Party

Testified 29 April

Civil party Mr Sar initially joined the Khmer Rouge in the propaganda unit, before moving to a special "driving unit" where he was required to drive both CPK leaders and visiting dignitaries as they required. He answered questions on early propaganda activity of the Khmer Rouge he witnessed, and also the conduct of the visits of foreign dignitaries. He also gave testimony as to the content and conduct of CPK study sessions.



### Ros Suy

Testified 25 April

Mr Ru, a rice farmer, was chief of a military unit overseeing the Khmer Rouge's network of warehouses. Accordingly, he was questioned on the production, storage, distribution and export of various resources during the Khmer Rouge era, such as rice, fabric, rubber and steel and the alleged role of both Accused in relation to them. Mr Ros was also questioned regarding the disappearance of arrested persons, the evacuation of Phnom Penh and the denouncement of people as traitors, as well as on Khieu Samphan and Nuon Chea's alleged involvement in study session.

### Chuon Thi

Testified 24 April

Mr Chuon was a battalion commander and deputy regiment commander under the Khmer Rouge. He answered questions about the leadership of the CPK, the process by which orders were issued and the capture and evacuation of Phnom Penh. He also testified about his unit's activities in various provinces and its agricultural assignments, the content of CPK propaganda broadcasts, and the storage and distribution of Khmer Rouge armaments.



## CP Lawyers Granted Access to 003, 004 Case Files

In two decisions made public on 19 April 2013, international Co-investigating Judge Mark Harmon accredited and recognized 14 and 20 civil party lawyers in Case 003 and Case 004, respectively. Judge Harmon also gave instructions to the greffiers to grant the lawyers access to the Case File.

Judge Harmon issued the two decisions after he had recorded written records of disagreement with national Co-Investigating Judge You Bunleng. Following the decision, the civil party lawyers and their clients will have access to confidential material on the Case Files.

In the same decisions, the Victims Support Section was instructed to continue to accept and forward new civil party applications in Cases 003 and 004.

## Visitor Statistics

Public interest in the ongoing trial of the former Khmer Rouge leaders remains high. By the end of April, the Trial Chamber concluded 171 trial days, where a total of 61 witnesses, experts and civil parties have testified. At this time, a total of 79,022 persons have attended the trial hearings in Case 002, 82% of whom were Cambodian nationals brought to the court by the ECCC's free transportation services.

## Case 002 Documents Declassified

Following a request from the co-investigating judges, the Trial Chamber has declassified a number of documents from the investigative phase of Case 002 in order to further transparency and public access to the ECCC proceedings.

Documents now on the public record include: Ieng Thirith's lawyers' request for exclusion of evidence obtained by torture and subsequent prosecution and defence written submissions; a number of requests filed by Ieng Sary's defence team challenging the application of various crimes and modes of liability set out in the ECCC law; and decisions issued by the co-investigating judges on a number of requests filed by

defence teams, civil parties and the co-prosecutors regarding the scope and conduct of the judicial investigation.

The process of deciding whether a document should be classified as public, confidential or strictly confidential is regulated in a Practice Direction on Classification and Management of Case-Related Information, adopted by all judges of the ECCC during a Plenary Session. The principle underlying this Practice Direction is the need to balance the confidentiality of judicial investigations and of other parts of judicial proceedings which are not open to the public with the need to ensure transparency of public proceedings and to meet the purposes of education and legacy.

DATE	PUBLIC VISITORS			JOURNALISTS		NGO	CIVIL PARTY	VIP	TOTAL
	National		Int'l	National	Int'l				
	PAS	Others							
08/04/13	167		17	5	4	6	56	0	255
09/04/13	202	3	17	5	4	6	44	4	285
10/04/13	260		33	6	2	6	44	1	351
11/04/13	226		4	6	2	8	39	1	286
22/04/13	489		7	14	2	5	46		563
23/04/13	360		29	13	2	5	29		438
24/04/13	357	2	5	4	3	4	30		405
25/04/13	277	6	32	3	1	4	37	1	361
29/04/13	330	42	5	7	2	4	42	0	432
30/04/13	477		3	2	2	6	30		520
<b>Sub-Total: April</b>	<b>3145</b>	<b>53</b>	<b>152</b>	<b>65</b>	<b>24</b>	<b>54</b>	<b>396</b>	<b>7</b>	<b>3896</b>
<b>Total: Day 1- Day 171 (Nov 2011 -</b>	<b>65,015</b>	<b>1,852</b>	<b>2,190</b>	<b>2,003</b>	<b>1,053</b>	<b>945</b>	<b>5,624</b>	<b>340</b>	<b>79,022</b>

## Visitor information for public hearings

### Hearing Schedule

Monday-Thursday except national holidays, **9:00-16:00**  
Two 20-minute breaks: **10:30** and **15:00** (roughly)  
Lunch break: **12:00-13:30**

### Rules in the Public Gallery

Visitors are advised to wear appropriate clothing and to behave in a manner appropriate to the nature of the proceedings. No mobile phones, cameras, large bags, food or drink are permitted in the main courtroom. Visitors should take all personal belongings with them when leaving the public gallery during breaks.

Visitors are requested to remain seated while the court is in session. Those who need to use the bathroom during a hearing should follow the security officers' instructions. There are two sets of bathrooms: one on the ground floor and one on the mezzanine level.

### Language of Proceedings

The court provides simultaneous interpretation of its proceedings in Khmer, English and French. The speakers in the main courtroom project the proceedings in Khmer, but English and French translation is also available through the headsets on either side of the main courtroom. English is on channel 2 and French is on channel 3. To reset the headset, press down on the two volume arrows simultaneously.

## Nimes Bar Association Visits ECCC



*The Lead Co-Lawyers for the Civil Parties address the Nimes Bar Association.*

Sixteen lawyers from the Nimes Bar Association in France visited the Extraordinary Chambers in the Courts of Cambodia on 23 April to learn about the groundbreaking work of the tribunal.

Members of the Public Affairs Section were

on hand to greet the lawyers and lead them to the public gallery, where they observed former Khmer Rouge commander Chhouk Rin giving testimony before the Trial Chamber. Following the morning session of the hearing, spokesman for the national side Pheaktra

Neth introduced the Public Affairs Section, which organizes tours of S-21 and the Choeng Ek Killing Fields, and otherwise ensures that information about proceedings is disseminated to the public. The visiting lawyers expressed their admiration that, since 2009, such efforts have reached 180,000 Cambodians.

In the afternoon, the Bar Association members enjoyed presentations by Defense Support Section representative Eric Husketh, who spoke about the importance of fair trial rights, and the prosecution’s Vincent de Wilde. Lastly, the visitors learned about the ECCC’s efforts to directly involve victims in judicial proceedings through a joint presentation by Lead Co-Lawyers Ang Pich and Elisabeth Simonneau-Forte.

Chief of delegation Mr Olivier Goujon expressed his appreciation, saying his group had learned a lot about the tribunal’s pursuit of justice for Cambodia.

## Inspired by Outreach, Preah Vihear Villagers Attend Study-Tour

Roughly 250 villagers from remote Preah Vihear Province visited the Extraordinary Chambers in the Courts of Cambodia on 2 April to learn about the steps being taken to bring former Khmer Rouge leaders to justice. The villagers, who hail from Cheb District, on the border between Cambodia and Laos, rode court-provided buses roughly 1,000 km to Phnom Penh and back.

The visit came after an ECCC outreach trip to Preah Vihear on 13 March, when Chief of Public Affairs Dim Sovannarom spoke to a group of 450 district and commune members and chiefs, as well as village leaders. After the lecture, the Public Affairs delegation invited attendees to come on a “study tour”—a tour of S-21, Cheung Ek Killing Fields and the ECCC itself. Shortly thereafter, a number of commune chiefs contacted Public Affairs about making the trip to Phnom Penh.

In the morning of 2 April, the villagers listened to a Public Affairs lecture on the history of the ECCC, beginning with the initial agreement between the United Nations and Cambodian government and continuing up through the present day. Public Affairs members went on to explain the court’s mandate—to try senior leaders and those most responsible for the crimes committed during the Khmer Rouge era—and its hybrid structure (i.e. a Cambodian court observing inter-

national legal principles and assisted by international staff).

For villagers touring the ECCC grounds, including the public gallery and office buildings, the ECCC’s spirit house was a highlight. *Lok Ta Dam Bang Dek*, often translated as “Lord of the Iron Staff” in English, is the site where all ECCC witnesses swear to provide truthful testimony. Similar spirit houses,

which are believed by locals to contain the ghosts of righteous individuals, can be seen at courts throughout Cambodia.

After several hours at the courts, the villagers took guided tours of S-21 and the Cheung Ek Killing Fields before making their way back to Preah Vihear.



*Public Affairs spokesperson Pheaktra Neth discusses the work of the ECCC with Preah Vihear villagers.*

## Cambodia Defenders Project Screens “Women’s Hearings” Film

The Cambodian Defenders Project on 11 April screened a film by Sopheak Sao that documents a series of “Women’s Hearings” held over the past two years.

In the 2011 Women’s Hearing, five brave women from Nepal, Bangladesh, Timor-Leste and Cambodia shared their stories and experiences of gender-based violence in conflict; in the 2012 Women’s Hearing, held on 10-11 October, five more women repeated the process.

The film documents the violence the women suffered, including rape, forced marriage and sexual violence. It also showed the psychological trauma these women dealt with as victims of rape. Many had never told their stories prior

to the Women’s Hearings. They had felt too ashamed, even to talk with their families, for fear of the stigma of being a rape victim.

By breaking their collective silence, these women, aged 23-80, were also able to end years of imagined isolation and provide each other with mutual support. Chum Ly, a Khmer testifier, said, “As I listened to some people sharing their experiences, I got the feeling that issues we face are all about the same.”

In the film, the women strongly advocate informing future generations of the tragedies that occurred, to ensure that they does not happen again and to further the healing process and to continue the fight for justice.

The full film can be found online at: <http://www.youtube.com/watch?v=urURTF-S2qY>



Women from four different conflict zones “testified” about violence in Women’s Hearings.



**Can’t wait a whole month for the next Court Report?**

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- subscribe to our weekly email newsletter

[www.eccc.gov.kh/en/subscribe](http://www.eccc.gov.kh/en/subscribe)

Every month, each section of the Extraordinary Chambers in the Courts of Cambodia compiles a summary of its activities to inform the general public on the latest developments of the court. The following are updates from each section on the activities of **April 2013**. *For decisions and orders, please refer to page 10.*

## Pre-Trial Chamber

During the reporting period, the Pre-Trial Chamber continued its deliberations on two matters pending before it and disposed of a number of procedural and other case-management matters.

## Supreme Court Chamber

In April, the Supreme Court Chamber continued its examination of:

- Khieu Samphan's request that order and decisions of the Supreme Court Chamber be disseminated in all three official languages of the ECCC;
- Khieu Samphan's immediate appeal against the decision issued in the form of an email sent from Ms Lambon 21 February;
- Ieng Thirith's and the Trial Chamber's requests for clarification on the interpretation and implementation of the Supreme Court Chamber's decision of 14 December 2012 on the appeal against the Trial Chamber's order to unconditionally release Ieng Thirith.

On 23 April, the Supreme Court Chamber also became seized of a request from the Co-Prosecutors for an urgent order to the Trial Chamber to issue a reasoned decision on the severance of Case 002. Three days later, the Trial Chamber issued its reasoned decision in writing on the severance of Case 002.

On 30 April, the Supreme Court Chamber granted, in part, Khieu Samphan's request for trilingual notification of the Supreme Court Chamber's decisions, and decided to henceforth issue its decisions and orders in all three official languages of the ECCC (English, French and Khmer) where circumstances permit.

Khieu Samphan's appeal and the requests for clarification remain under consideration.

## Office of the Co-Investigating Judges

During the month of April, the international side of the Office of the Co-Investigating Judges continued the investigation of Case Files 003 and 004.

The International Co-Investigating Judge issued two decisions regarding Case 003. OCIJ international investigators went on one field mission, recording two witness statements.

The International Co-Investigating Judge issued two decisions regarding Case 004. OCIJ international investigators went on three field missions, recording ten witness statements.

Regarding both Case 003 and 004, the Legal Unit and Analysts Unit are assessing civil party applications for both their admissibility and evidentiary value.

The Analysts Unit continues conducting on-site reviews of documentary evidence provided by external sources. Over 2,500 files have been reviewed in total; 284 files (628 documents) were identified as being relevant to the ongoing investigations in Cases 003 and 004.

The Legal Unit welcomed the arrival of two new legal officers: Ms Emma Jane Pountney (British national) and Ms Julie Bardeche (French national). Throughout April, efforts to fill the remaining vacant posts on the international side of the Office of the Co-Investigating Judges continued.

The International Co-Investigating Judge has reached out to representatives of the international community for funds to recruit a small team of young Cambodian lawyers to work on the processing of civil party applications, which have already passed the number of 1,200 for the two cases. To date, those efforts have not been successful.

## Office of the Co-Prosecutors

**Case 002:** The OCP continued to litigate Case 002 both in the courtroom and through written submissions to the Trial Chamber and Supreme Court Chamber. In court, the OCP participated in the questioning of Witnesses Chhaom Se, Francois Ponchaud, Ros Suy, Ung Chat, and civil party Sar Sarin, and participated in a hearing regarding Khieu Samphan's request for provisional release.

Through filings, the OCP addressed a number of matters: filing a request to admit 26 newly-available diplomatic cables from the United States Embassy in Phnom Penh and the US Secretary of State written during the 1973-1975 time period; filing a request for an extension of time to question two witnesses; a response to a request by the Defence for Khieu Samphan seeking to put before the Trial Chamber excerpts of a videotaped interview with the late King Father Norodom Sihanouk; a revised list of witness statements and complaints that the Co-Prosecutors seek to have admitted as evidence; a request to clarify the Closing Order paragraphs included in the reversed Case 002/01; and a request to the Trial Chamber to issue its written reasons for its decision to re-sever Case 002. The OCP also filed a request to the Supreme Court Chamber for an order to the Trial Chamber to issue a reasoned decision on its re-severance of Case 002.

**Case 003:** The OCP continues to analyze the evidence in and monitor the progress of Case File 003.

**Case 004:** The OCP continues to analyze the evidence in and monitor the progress of Case File 004.

## Defence Support Section

In late March the Khieu Samphan Defence filed a motion for the immediate release of the accused on bail. The motion argued that the continued provisional



detention of the accused was excessive and violated his fundamental right to a fair and expeditious trial. It further contended that Khieu Samphan had never attempted to flee and always participated in the proceedings. The Trial Chamber heard oral arguments on 11 April and issued a decision on 26 April rejecting the application, concluding that the provisional detention is not excessive but required due to the late stage of the proceedings and that the undertakings by the accused to appear in the Court are not sufficient to outweigh these concerns.

Also on 26 April, the Trial Chamber issued its reasoned decision on the severance of Case 002. The defence teams differed in their arguments. Nuon Chea's defence team opposed the severance, although it had initially supported it, arguing that hearing Case 002 in its entirety would be the only just way to ensure that accused will present a coherent defence. Khieu Samphan's defence team argued that the Trial Chamber should issue an individual severance for him due to the health conditions of other co-accused, which regularly delay proceedings.

The Trial Chamber stated that the charges in the first trial of Case 002 will be limited to the alleged crimes against humanity arising from the movement of the population from Phnom Penh and later from the other regions, and execution of Khmer Republic soldiers at Tuol Po Chrey execution site immediately after the Khmer Rouge takeover in 1975. The main reasons given were the complexity of the Closing Order in Case 002/01, the health conditions of the co-accused, and the interests of justice.

## CP Lead Co-Lawyers Section

### Hearings

Due to a number of circumstances, including the pending decision on the severance of Case 002, there were very few hearings held in the month of April. Early in the month, the Lead Co-Lawyers for the Civil Parties participated in the examination of Francois Ponchaud, which focused on the alleged forced movement of the population from Phnom Penh. Later in the month, hearings were held on Khieu Samphan's request for provisional release; however, the Trial Chamber did not grant

the LCLs the opportunity to make pleadings in this hearing.

### Submissions

On 26 April, the Lead Co-Lawyers for the Civil Parties filed a submission to the Trial Chamber detailing a number of documents, including civil party evidence, that they have put forward in the current case, as well as updating the Trial Chamber on the LCL's efforts to meet the Chamber's requirement for the timely translation of these documents.

### Meetings & Outreach

On 22 April, National Lead Co-Lawyer Pich Ang coordinated the selection of two civil party representatives to be interviewed by CNC Television about their experiences during the Khmer Rouge regime.

Over the course of the month, the National Lead Co-Lawyer also gave two press interviews. First, speaking to CNC Television on 23 April, he provided an update on the status of proceedings in Case 002/01 and commented on the LCLs examinations of witnesses and what civil parties hope to gain from the current trial. Later, as a guest on the "Truth Program" (Women's Radio FM 102) on 26 April, he discussed why crimes of sexual violence are not a part of the current proceedings before the ECCC and listened to accounts of sexual violence which took place during the Democratic Kampuchea regime.

### Reparations

Throughout the month, lawyers for the civil parties continued working with the Victims Support Section (VSS) and civil society partners to develop reparations projects for the current case. Budgets and project plans were finalized in meetings held this month and approaches were made to several potential project donors.

## Victims Support Section

### Legal Work

The Processing and Analysis Team (PAT) in April continued to process applications in case 003 and 004, filing five applications and 12 Power of Attorney requests with the OCIJ. It also processed one request to continue civil action from the daughter of a deceased civil party.

In addition, the team assisted the OCIJ

in verifying Case 003 and 004 civil party lawyers and helped three current lawyers renew their IDs.

### Outreach

Four-hundred and three civil parties who attended hearings in April had the opportunity to meet with their lawyers. All civil parties who attended through the U.N. Trust Fund to End Violence against Women met civil party lawyers and TPO staff for a pre- and post-hearing briefing.

### Non-Judicial Measures and Reparations

During this month, the team has been working on the following activities:

- Together with VSS Chief, Program Manager of the Reparations and Non-Judicial Measures (R&NJM) Team participated in a meeting with LCLs to update them on the reparation program's funding;
- The R&NJM Team worked on developing a concept proposal for the Toul Sleng Stupa Project;
- R&NJM Team produced a concept paper for the Victims Voices' project;
- The Program Manager of R&NJM participated in a meeting with Youth for Peace, Kdei Karona, and the lead co-lawyers to finalize the budget for the Community Memorials Initiative and mobile exhibition on forced population transfer;
- The R&NJM Team finalized its proposals for the Community Memorials Initiatives, mobile exhibition on forced population transfer, Testimonial Therapy and Self Help Group Reparations projects;
- Three project proposals were sent to the Swiss Agency for Development and Cooperation (SDC) for consideration and cooperation.

### INFORMATION ON THE WEB:



The ECCC website

[www.eccc.gov.kh](http://www.eccc.gov.kh)

# Court Calendar



## Decisions/Orders

Public versions of the decisions, orders, opinions and considerations are available on the official ECCC website: [www.eccc.gov.kh](http://www.eccc.gov.kh).

### Trial Chamber

**2 April 2013:** *Second Decision on Accused Nuon Chea's Fitness to Stand Trial (E256/5)*

The Trial Chamber affirmed its earlier finding that the Accused Nuon Chea is capable of meaningful participation in his own defence and is therefore fit to stand trial. Additionally, the Trial Chamber denied the defence's request to order additional mental and physical examinations of the Accused, as well as the defence's request to permit the participation of the Accused in the trial proceedings from the detention facility. Further, the Trial Chamber directed the Medical Unit and detention facility, with the assistance of the Office of Administration, to implement the recommendations of the medical experts set out in paragraphs 17, 19, 20, and 21 of the Expert Report of March 2013.

**26 April 2013:** *Decision on Khieu Samphan's Application for Immediate Release (E275/1)*

The Trial Chamber ordered the continued detention of Khieu Samphan pursuant to Internal Rule 63 (3) (b)(iii): to ensure his presence during the proceedings.

**26 April 2013:** *Decision on Severance of Case 002 Following Supreme Court Chamber Decision of 8 February 2013 (E284)*

The Trial Chamber decided that it was in the interests of justice to sever the proceedings in Case 002. Accordingly, it severed proceedings in this case pursuant to Internal Rule 89ter. It decided that the scope of the first trial in Case 002 shall comprise the portions of the Closing Order pertaining to forced movement phases one and two, executions committed at Toul Po Chrey in the aftermath of the evacuation of Phnom Penh.

### Supreme Court Chamber

**30 April 2013:** *Decision on Request by the Defence for Khieu Samphan for Trilingual Notification of the Supreme Court Chamber's Decisions (E163/5/1/15)*

The Supreme Court Chamber granted the Request in part and decided to henceforth issue, on a case-by-case basis and where circumstances permit, its decisions and orders in all three working languages of the ECCC.

### Office of the Co-Investigating Judges

**1 April 2013:** *Lawyer's Recognition Decision Concerning All Civil Party Applications on Case File No.004 (D126)*

International Co-Investigating Judge Mark B. Harmon accredited and recognised the 20 lawyers duly admitted to the list of lawyers willing to represent victims before the ECCC, the lawyers for the 14 civil party applicants and all other pending civil party applicants and admitted civil parties who have designated them, or who may do so in the future, for the purposes of the judicial investigation before the ECCC in Case File No.004. Mr Harmon instructed the OCIJ greffiers to grant access to the Case File to the recognized lawyers, and invited the ECCC Victim Support Section to continue to accept and forward to the OCIJ any new civil party applications they receive up until 15 days after the issue of any notification of the conclusion of the judicial investigation in Case File 004.

## Hearings (For an updated hearing schedule, visit <http://www.eccc.gov.kh/en/event/court-schedule>)

### Hearing of evidence in Case 002:

1-2 May, 9:00- 16:00  
6-9 May, 9:00-16:00  
20-23 May, 9:00-16:00  
27 May, 9:00-16:00  
29-30 May, 9:00-16:00

### Upcoming Trial Recesses

Monday 13 – Friday 17 May 2013 (His Majesty the King's Birthday)

## Outreach Activities

**1-3 April:** Kdei Karuna screens a film before 20-30 participants to educate them about the process of reconciliation in Kratie. They also stage a memorialisation activity in Kampong Speu.

**4 April :** Representatives of the Public Affairs Section participated in the Youth Resource Development Program (YRDP) Dialogue on the issue of the legacy of the ECCC.

**-6 April:** Kdei Karuna conducts a study tour with 20 people from Prey Veng around different sites to learn from past memory work.

**9 April :** CDP conducts a meeting between the Civil Parties and the Civil Party lawyers in Kampong Speu Province.

**23 April:** CDP hosts a radio show titled "Trial attendance: Its importance, benefits and challenges."

**23-27 April:** Kdei Karuna conducts TOT assessment of 20 villagers in both Mondulkiri and Rattanakiri in regards to issues of historical trauma and justice.

**23-26 April:** Kdei Karuna conducts CMI Culmination Dialogue where 10-10 key actors from the CMI Study Tour are able to share lessons they learnt in implementing memory initiatives.

**06-10 May:** Kdei Karuna conducts a CMI Study Tour of Memory Initiatives for key and central actors at Tuol Sleng and in Takeo and Kampot. 16 participants (8 females) from Prey Veng Province attended the study tour. They learned about the Khmer Rouge regime and how to implement memory initiatives in their own community.

**15-17 May:** JHO follow-up culmination activity in Kratie. Between 20-25 participants will implement a memorialization activity in order to meet the community's ongoing needs in this area.

**20-25 May:** Second CMI culmination dialogue in Prey Veng. 10-20 key actors who attended the CMI study tour will work together to monitor the progress of local memory initiatives in the community.



International participants of the Memory Initiatives Exchange program.

## ECCC Outreach

The Public Affairs Section hosts **Khmer Rouge Tribunal Study Tours**, bringing groups of 200-300 villagers from areas throughout Cambodia to attend the ongoing hearings of Case 002, have a guided tour of the Tuol Sleng Genocide Museum, and visit the Choeung Ek Killing Fields. During the trial recesses, the Public Affairs Section conducts **school visits** to give briefings, as well as hosts **community video screenings** across Cambodia. The Public Affairs Section also welcomes international group visits, and provides briefings and court tours.

### April 2013

SUN	MON	TUE	WED	THU	FRI	SAT
31	1	2	3	4 YRDP Youth Dialogue	5	6
7	8 Hearing 002. Study tour.	9 Hearing 002. Study Tour.	10 Hearing 002. Study Tour.	11 Hearing 002. Study Tour.	12 Hearing 002 (if necessary)	13
14	15 Khmer New Year	16 Khmer New Year	17 Khmer New Year	18	19	20
21	22 Hearing 002	23 Hearing 002	24 Hearing 002	25 Hearing 002	26	27
28	29 Hearing 002	30	1	2	3	4

### May 2013

SUN	MON	TUE	WED	THU	FRI	SAT
			1 Hearing 002.	2 Hearing 002. Study Tour.	3 Study Tour.	4
5	6 Hearing 002. Study tour.	7 Hearing 002. Study tour.	8 Hearing 002. Study tour.	9 Hearing 002. Study tour.	10	11
12	13 His Majesty the King's Birthday.	14 His Majesty the King's Birthday.	15 His Majesty the King's Birthday.	16 His Majesty the King's Birthday.	17 His Majesty the King's Birthday..	18
19	20 Hearing 002..	21 Hearing 002..	22 Hearing 002..	23 Hearing 002.	24	25
26	27 Hearing 002.	28 Hearing 002.	29 Hearing 002.	30 Hearing 002..	31	



# Find out more about the Extraordinary Chambers in the Courts of Cambodia

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The ECCC welcomes visitors. For more information, contact [pas@eccc.gov.kh](mailto:pas@eccc.gov.kh).



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## The Court Report

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