



# The Court Report

## The Extraordinary Chambers in the Courts of Cambodia Moving forward through justice

### The Parties in Case 002/02 submitted their amended closing briefs

The Parties in Case 002/02 submitted amendments to closing briefs were requested from all parties by the Trial Chamber on the basis that some transcripts of trial testimony had not been finalised by the Court's translation unit at the time of the filing of the closing brief on 2 May 2017.

In October, the Co-Prosecutors filed an amended version of their closing trial brief to the Chamber. The Co-Prosecutors made minor amendments to their closing brief where quotations from trial testimony had been amended by translators. The substance of the Co-Prosecutors' closing brief did not change: setting out the evidence proving the responsibility of Nuon Chea and Khieu Samphan for crimes committed at security centres, cooperatives and worksites throughout Cambodia, as well as policies of forcing people to marry nationwide and committing genocide against the Cham and Vietnamese minorities.

The Nuon Chea and the Khieu Samphan Defence Teams made the amendments to their closing trial brief in light of revisions made to trial transcript content following a comprehensive review by the Transcription Unit on 28 September and 2 October respectively.

Nuon Chea's Defence Team maintains that he accepts moral responsibility for the events of Dk and that root causes like Vietnam committing acts of aggression against Cambodia left the country in a constant state of emergency which resulted in the CPK policies being charged in Case 002/02 being not only rational but legal. Khieu Samphan's Defense Team maintains that the Trial Chamber exceeded its jurisdiction and applied a law that did not exist at the time of the events and points out the violations of substantial and procedural law that have occurred during the trial.

The Civil Party Lead Co-Lawyers filed their Amended Closing Brief, which incorporated the revised transcripts of Civil Party testimony into their original brief on 2 October. The Civil Party Lead Co-Lawyers are seeking recognition for 17 proposed reparation projects to provide benefits to the 3,867 admitted civil parties.

Currently the Trial Chamber is deliberating its verdict in Case 002/02. A judgement is expected for the end of the second quarter of 2018.

## In this issue...

### Judicial updates

- Supreme Court Chamber continues with research on forced marriages.
- Trial Chamber issued one public written memorandum and evaluated evidence in preparation for the drafting of the Judgement in Case 002/02.
- Pre-Trial Chamber notified a total of four judgements on appeals and motions and one decision on an interlocutory request. **Read more on pages 2-4.**

### Outreach Activities

Public Affairs outreached to more than 3000 Cambodian and 65 international visitors in this two months period. Additionally over 800 students took part in the screening of "About my father" at the Royal University of Phnom Penh. **Read more on pages 5-6**



Photo: ECCC



### Extraordinary Chambers in the Courts of Cambodia

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# Judicial updates:

## Supreme Court Chamber

The Supreme Court Chamber continued with research, but focussed on forced marriages and sexual assaults. The research covered traditional Khmer marriages, arranged marriages, betrothals, separation/divorce: parental rights, age of consent to marriage. The research also covered official/government role in matrimonial affairs. Issues of legitimacy and child rights were also covered in order to compare marriage status at the material time.

## Trial Chamber

The Trial Chamber issued one public written memorandum in October 2017. On 5 October 2017 the Trial Chamber wrote to the Dean of the Amsterdam Bar Association requesting an update in connection with the case of possible misconduct by Mr. Victor Koppe. The Trial Chamber requested information on whether Mr. Victor Koppe had filed any response to the Second Addendum and whether the investigation had been forwarded to the Disciplinary Council.

During September and October 2017 the Trial Chamber was also engaged in the evaluation of evidence and preparation of material for the purposes of drafting the Judgement in Case 002/02. The Trial Chamber continues to work towards the deadline of issuing the Judgement in Case 002/02 by the end of the second quarter of 2018.

## Pre-Trial Chamber

During the months of September and October 2017, the Pre-Trial Chamber notified a total of four judgements on appeals and motions and one decision on an interlocutory request, including: two judgments in case 004/02 concerning an appeal against a decision rejecting an application to annul the entire investigation and an appeal against the forwarding order (PTC04/2/43 and PTC04/2/44, respectively); and two judgments in Case 004 concerning an application to annul placement of case 002 trial transcripts onto Case File 004 (PTC04/45) and an appeal against a decision

on requests to place materials on Case File (PTC04/47). These judgements and decisions are available in the ECCC website.

The Chamber was newly seised of two cases, including a motion for annulment of documents relating to Civil Parties (PTC04/51); and an appeal against a decision on a request for investigative action (PTC04/52).

The Chamber completed deliberations on one pending appeal concerning a decision on a request for adequate preparation time (PTC04/46) and advanced preparations for deliberations on another motion for annulment (PTC03/33).

Since January, the Pre-Trial Chamber has issued a total of twenty judgements and eight orders and is currently seised with seven cases, from which five cases are yet to be fully briefed (PTC 03/34, PTC 04/46, PTC 04/1/50, PTC04/51 and PTC04/52). The next deliberations are expected to take place in November.

## Office of the Co-Investigating Judges (OCIJ)

During the months of September and October, OCIJ has been processing investigative material, and addressing investigative requests in Case 004 and procedural motions in all cases, including the review of investigative material in Khmer language.

The Co-Investigating Judges ("CIJs") are currently the drafting Closing Order in Case 004/2, after the response by the Defence to the Prosecution's final submissions was received.

On 5 September, the CIJs issued the Second Notice of Conclusion of Judicial Investigation against Yim Tith in Case 004.

On 25 October, the International Co-Prosecutor filed an appeal against a decision of the International Co-Investigating Judges, dated 4 September, which had rejected an investigative action request the International Co-Prosecutor had made within the period of Internal Rule 66(1). In accordance with Internal Rule 66(4), the CIJs cannot issue a Forwarding Order in Case 004 until this appeal is adjudicated upon.

## Defence

### Nuon Chea

During the reporting period the Nuon Chea Defence Team submitted the amended closing trial brief in Case 002/02 to the Trial Chamber.

### Khieu Samphan

Khieu Samphan's Defence Team also submitted their amended closing brief in Case 002/02.

### Meas Muth

The Meas Muth Defence filed several submissions to the Pre-Trial Chamber, which have been classified as confidential. The Defence continues to review material on the Case File and to prepare submissions to protect Meas Muth's fair trial rights and interests.

### Im Chaem

In September, the Defence responded to the International Co-Prosecutor's Appeal against the Closing Order (Reasons) and filed a confidential response to the Appeal against the Decision on the Redactions of the Closing Order (Reasons) before the Pre-Trial Chamber.

The Defence endeavours to safeguard Ms. IM Chaem's fair trial rights and interests throughout the remaining proceedings of the pre-trial stage of Case 004/01.

### Ao An

In September, the AO An Defence team continued to prepare the response to the Final Submissions of the Co-Prosecutors and review all materials on the Case File in order to safeguard Mr. AO An's fair trial rights.

### Yim Tith

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

## Office of the Co-Prosecutors

In September and October, staff and interns of the Office of the Co-Prosecutors were engaged across all cases, with the filing of an amended closing brief in case 002/02 as well as the ongoing investigations and litigation in cases 003, 004 and 004/01.

### Case 002

In October, the Co-Prosecutors filed an amended version of their closing trial brief to the Chamber. Amendments to closing briefs were requested from all parties by the Chamber on the basis that some transcripts of trial testimony had not been finalised by the Court's translation unit at the time of the filing of the closing brief on 2 May 2017.

The Co-Prosecutors made minor amendments to their closing brief where quotations from trial testimony had been amended by translators. The substance of the Co-Prosecutors' closing brief did not change: setting out the evidence proving the responsibility of Nuon Chea and Khieu Samphan for crimes committed at security centres, cooperatives and worksites throughout Cambodia, as well as policies of forcing people to marry nationwide and committing genocide against the Cham and

Vietnamese minorities.

### Cases 003

Review and analysis of the evidence collected to date by the Co-Investigating Judges continued. Additionally, the International Co-Prosecutor confidentially filed one response to the Pre-Trial Chamber and one response to the Co-Investigating Judges.

### Case 004 and Case 004/01

Review and analysis of the evidence collected in the investigations against the Charged Persons was ongoing. In case 004, the International Co-Prosecutor confidentially filed one request, one response and a notice of appeal to the Co-Investigating Judges, and one response and a submission to the Pre-Trial Chamber. In case 004/01, the International Co-Prosecutor confidentially filed one request, one reply and one submission to the Pre-Trial Chamber.

### Outreach

Representatives of the office participated in meetings at the Court premises with journalists visiting from Myanmar, jurists and historians visiting from France, as

well as students visiting from the Royal University of Law and Economics in Phnom Penh, Niigata University (Japan) and the University of Toronto (Canada), explaining the substantive law and structure of the court as well outlining the cases and the work of the office. Members of the office were also involved in providing judicial training for legal practitioners at the Royal Academy of Judicial Professions in Phnom Penh.

## Victims Support Section

### Project on Gender-Based Violence during the Khmer Rouge

The "Mobile Exhibition and Intergenerational Dialogue on Forced Marriage during the Khmer Rouge Regime", was organized by the section on 13 and 14 September in Takeo province. Approximately 400 participants including Civil Parties, students, NGO staff and the general public joined this two-day event.

VSS held a meeting in Pursat province with 33 female civil parties and gender-based violence (GBV) survivors of the Khmer Rouge regime. During the meeting, Civil Party lawyers provided participants with information on new developments of the



Photo: ECCC

ECCC's proceedings and the proposed reparation projects in Case 002/02, while TPO staff provided psychological support.

A field mission to Pursat province to find five disadvantaged Civil Parties was also conducted, however only four Civil Parties were found, as one civil party has passed away.

Two radio live shows on the topic "Mobile Exhibition and Intergenerational Dialogue on Forced Marriage during the Khmer Rouge Regime and Sexual and Gender-based violence and its past and present impacts" were organized in cooperation with the Women Media Center. There were a total of thirteen callers, including nine off-air and four on-air callers for the two radio shows.

### Outreach

Under the financial support of Civil Peace Service (CPS)/German Agency for International Cooperation (GIZ), the Victims Support Section and Civil Party Lead-Co Lawyers' Section co-organized two Civil Party Consultation Forums in Kampot and Pursat on Judicial Reparation in Case 002/02, which were attended by a total of 240 civil parties.

They gave a presentation on the ECCC's current proceedings and reparation projects, and answered and clarified questions or concerns of civil parties.

The main purpose of the forum was (i) to inform civil parties about the developments of the ECCC's trial proceedings against Nuon Chea and Khieu Samphan; (ii) to provide opportunities for civil parties and their lawyers to discuss issues related to the hearings of Case 002/02 and proposed reparation requests in Case 002/02.

VSS briefed a group of French Judges, Prosecutors, Professors and Historians on projects it has implemented.

The Head of the VSS met with representatives of the Federal Ministry for Economic Cooperation and Development of Germany and the German Agency for International Cooperation (GIZ) to discuss the continuation of funding for the VSS in 2018. He also attended GIZ Day as a guest speaker to speak about reparations under the ECCC framework.

### Legal Representation

Civil Party Lawyers participated in a meeting with a legal consultant of the Office of the United Nations High Commissioner for Human Rights (OHCHR) to discuss the ECCC's legacy. They also conducted field missions in Kampong Speu, Prey Veng, Svay Rieng, Oudor Mean Chey, Siem Reap and Kratie province to meet with civil parties to update them on the court's proceedings relating to their case and were engaged with technical work in Cases 002, 003 & 004.

### Processing and Analysis

The VSS team continued to process and edit applications and supplementary information on Cases 003 and 004 and filed Power of Attorney letters to the Chambers for civil parties.

### Reparation and Non-Judicial Measure (R&NJM)

In September, staff members had a meeting with Youth For Peace (YFP) to discuss and finalize the proposal and logistical framework of a proposed reparation project, "Phnom Sampeou Community Peace Learning Center and Treatment of Buddhists during the Khmer Rouge Regime" at YFP's office. He also had a meeting with the LCLs to discuss and update the proposals of the proposed reparation projects to UNOPS.

In October, VSS updated the status of the proposed reparation projects for Case 002/02 with implementing partners. In addition, two other meetings between VSS and the LCLs were "the content to be included in VSS's fundraising report" and "needed supplemental materials of some of the proposed reparation projects for Case 002/02 and to figure out how to collect these".

### Civil Parties Co-Lawyers

#### Key Legal Issues and Submissions

During the months of September and October, the Lead Co-Lawyers worked closely with the Victim's Support Section and reparation project partners on their supplemental submission relating to the funding of six reparation projects.

On 2 October, the Lead Co-Lawyers filed their Amended Closing Brief in case 002/02 which incorporated the revised transcripts of Civil Party testimony into their original

brief (E457/6/2/3).

### Meetings and Outreach

During the month of September, the Lead Co-Lawyers worked in cooperation with the Victims Support Section to secure external funding for information and consultation sessions to be held with civil parties in the provinces where they reside in order to meet with as many civil parties as possible, who have not been able to otherwise attend civil party forums. These missions took place during the month of October.

The Lead Co-Lawyers travelled to Kratie, Mondulkiri, Ratanakiri, Stung Treng, Preah Vihear, Koh Kong, and Sihanoukville where they were able to inform and consult with civil parties on case 002/02 proceedings and on the proposed reparation projects, designed for their benefit. The Lead Co-Lawyers further organised missions for Civil Party Lawyers to meet with civil parties in Banteay Mean Chey, Pailin, Kampong Speu, Battambang, Prey Veng, Takeo, Svay Rieng, Siem Reap and Oddar Meanchey provinces.

On 29 September, the Lead Co-Lawyers attended the Civil Party Forum held in Kampot, in which 110 civil parties were invited to participate and were informed about developments in Case 002/02 proceedings and reparation projects. The Lead Co-Lawyers also attended the Civil Party Forum in Pursat on 26 October in which 125 civil parties participated.

# Orders and Decisions

## September

### Pre-Trial Chamber:

5 September 2017: the Pre-Trial Chamber issued a unanimous judgment dismissing an appeal in case 004 concerning a decision of the International Co-Investigating Judge on an application to annul the entire investigation(D350/1/1/4).

6 September 2017: the Pre-Trial Chamber dismissed as inadmissible an appeal against the Co-Investigating Judges' Forwarding Order issued pursuant to Internal Rule 66(4) (D351/2/3).

## October

### Trial Chamber:

5 October 2017: Update request – Possible Misconduct of a Lawyer Admitted to your Bar Association – Mr. Victor Koppe (E378/6)

### Pre-Trial Chamber:

26 October 2017: the Pre-Trial Chamber dismissed as inadmissible an application to annul the placement of Case 002 trial Transcripts onto Case File 004 (D360/1/1/6).

26 October 2017: the Pre-Trial Chamber dismissed as inadmissible an appeal against a decision on the International Co-Prosecutor's request to place materials on Case file 004 (D347/2/1/4).

# Outreach activities

The Public Affairs Section continued to promote judicial benchmarks. The spokespersons proactively approached the media and provided background information and comments on the ongoing proceedings and facilitated media coverage of the court proceedings. The Section also responded to several media and public enquiries for information.

In September, the Section facilitated interviews and filming for a US based educational TV station (Channel One News), which produced a documentary on Cambodia and the ECCC targeting US school children.

The Section's outreach team continued organizing study tours to the ECCC on non-hearing days. During the reporting period, it facilitated 13 study tours to the court premises, the former S-21 Security Centre and to the Killing Fields Museum. Over 3000 persons benefitted from the initiative. The Section also organized a visit of some 50 police officers from the Ministry of Interior, who were briefed by different officials of the ECCC. The Section also facilitated two visits for foreign VIPs during the reporting period.



Photo: ECCC

Cont'd from page 5

The Public Affairs Section also briefed around 70 international visitors to the ECCC including a judicial delegation from France, Myanmar journalists as well as Canadian and Japanese university students.

On 4 and 16 September, the Section, in collaboration with Bophana center, screened a film titled "About my father" at the Royal University of Phnom Penh to a total of over 800 students.

ការបញ្ជាក់ខ្លះខ្លួនក្នុងការយល់ដឹងពីស្ថានភាពនៃយុវជនកម្ពុជា

រំលឹកអំពីឪពុក ខ្ញុំ

Film Screening at RUPP  
About My Father



Saturday, 16 September 2017  
52 minutes  
6h30PM to 8h00PM

Co-Organized by



Photo: ECCC

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

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**Publisher:** DIM Sovannorom  
**Editors:** Hayat Abu-Saleh, NETH Pheaktra, Andreas Freund  
**Photographer:** NHET Sok Heng