



# The Court Report

## The Extraordinary Chambers in the Courts of Cambodia

Moving forward through justice



Khieu Samphan and Nuon Chea appear before the ECCC on 27 August 2015. (Photo credit: ECCC)

## Supreme Court Chamber to hear oral arguments on Case 002/01 appeals

Further appeal hearings against the trial judgement in Case 002/01 will take place on 16, 17, and 18 November 2015. During this time, the Defense teams and the Co-Prosecutors will be given a chance to present oral arguments related to these appeals.

Nuon Chea and Khieu Samphan are submitting 223 and 148 grounds of appeal respectively. Pending determination on the issues appealed, the accused are presumed innocent. In addition, the Co-Prosecutors have filed an appeal limited to seeking a confirmation from the Supreme Court Chamber that it is permissible to prosecute individu-

als before the ECCC for individual criminal responsibility based on the doctrine of the most extended form of joint criminal enterprise commonly referred to as JCE III.

In a scheduling order issued on 8 October 2015, the Supreme Court Chamber has informed the parties that it will hear oral submissions on six different groups of topics as follows:

### Monday 16 November

1. Grounds of appeals relating to fairness of proceedings and constitutionality of the Internal Rules of the ECCC.

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2. Grounds of appeal related to overall approach of evidence

**Tuesday November 17**

3. Grounds of appeal related to the crimes against humanity for which the Accused were convicted

4. Grounds of appeals related to the Accused's individual criminal responsibility.

**Wednesday November 18**

Submissions on grounds of appeals related to the Accused's individual criminal responsibility will continue during the first morning session. The Chamber will then hear submissions related to:

5. Grounds of appeal related to the sentence

6. Submission related to the Co-Prosecutors' appeal

The upcoming appeal hearings in November are the second round of appeal hearings before the Supreme Court Chamber in Case 002/01. Between 2 and 6 July 2015, the Supreme Court Chamber heard testimonies from three witnesses requested by Nuon Chea.

#### How long will the appeals process take?

Due to the complexity of the appeals, numerous requests for admission of new evidence, and the fact that three working languages (Khmer, English and French) are being used at the Court, it is difficult to precisely project when the appeals judgement can be pronounced. However, the Supreme Court Chamber is currently working with the goal of pronouncing the appeals judgement by the end of the second quarter of 2016, contingent on several variables.

#### Since there are appeals related to alleged error of laws and errors of fact, will the Supreme Court Chamber hear the entirety of Case 002/01 again?

No. The Supreme Court Chamber is bound by the confines of the scope of the appeals, and its principal role is to decide whether the trial judgment is tainted by any legal or factual errors. In determining whether an alleged error occurred, however, it may examine or call new evidence to determine the issue, an act which took place during the July hearing. In fact, controversy exists among the parties as to the correct approach regarding alleged factual errors, which the Supreme Court Chamber must decide in the course of the proceedings.

## Facts

### Nuon Chea's appeal

Nuon Chea is submitting 223 grounds of appeal against the Trial Judgement in Case 002/01, alleging that the Trial Chamber made a number of errors in law and in fact.

Nuon Chea requests that the Supreme Court Chamber invalidate the trial judgment and acquit him of all charges.

### Khieu Samphan's appeal

Khieu Samphan is submitting 148 grounds of appeal against the Trial Judgement in Case 002/01, alleging that the Trial Chamber made a number of errors in law and in fact.

Khieu Samphan requests that the Supreme Court Chamber reverse the Trial Judgement and acquit him of all charges and order his immediate release. In the alternative, Khieu Samphan asks that his life sentence be reduced to a specific number of years of imprisonment.

### The Co-Prosecutor's appeal

The Co-Prosecutors allege that the Trial Chamber erred in law by not allowing prosecution of the accused under the doctrine of the most extended form of joint criminal enterprise, commonly referred to as JCE III. JCE III is a mode of liability where a member of a joint criminal enterprise can be held criminally responsible for criminal acts committed by another member of the group, even when the act was not expressly included in the scope of the criminal enterprise, but it was nevertheless foreseeable that the criminal act may be a consequence of the joint criminal enterprise.

The Co-Prosecutors requests the Supreme Court Chamber to declare that Joint Criminal Enterprise III is a mode of responsibility which can be applied in the ECCC proceedings.

#### What is the composition of the Supreme Court Chamber and the voting rules for deciding on the appeals?

There are four Cambodian judges and three international judges in the Supreme Court Chamber. In order to make a decision, at least five out of seven judges must vote together.

#### Can the parties appeal against the Supreme Court Chamber's appeal judgment?

No. The decisions of the Supreme Court Chamber are final.

## Case 002/01 Timeline

**16, 17, 18 November 2015:** Second round of appeal hearings in Case 002/01.

**2, 3, 6 July 2015:** First appeal hearings in Case 002/01, where three witnesses gave testimony.

**25 May 2015:** 25 Civil Party Lead Co-Lawyers filed a consolidated written response to the appeal briefs submitted by Khieu Samphan and Nuon Chea.

**24 April 2015:** The Co-Prosecutors filed a written response to the appeal briefs submitted by Khieu Samphan and Nuon Chea.

**29 December 2014:** Nuon Chea and Khieu Samphan filed their written appeal briefs.

**28 November 2014:** The Co-Prosecutors filed a written appeal brief.

**29 September 2014:** Khieu Samphan, Nuon Chea and the Co-Prosecutors filed their respective written notices of appeal against the Trial Judgement in Case 002/01.

**7 August 2014:** The Trial Chamber found Nuon Chea and Khieu Samphan guilty of crimes against humanity in Case 002/01, and sentenced both accused to life imprisonment.

## Australia makes AUD 3.2 million pledge

The Government of Australia has made a new pledge of AUD 3,250,000 to the international component of the Extraordinary Chambers in the Courts of Cambodia (ECCC).

With this new pledge, the Government of Australia has provided financial assistance exceeding AUD 29 million. Australia is the second largest donor to the ECCC, and it has supported the Court since its inception.

"On behalf of the ECCC, we would like to express our gratitude for the generous and continued support offered by the Government of Australia. This new contribution will assist the ECCC in completing its mandate in a timely fashion", Acting Director of the Office of Administration Kranh Tony and Deputy Director Knut Rosandhaug said in a joint statement.

## Testimonies continue on the treatment of the Cham



**Mr. SEN Srun, testified on 14 and 15 September**

Rice farmer Sen Srun, 67, was formally interviewed five times by the court at his residence in Kampong Cham. He joined the revolutionary movement in 1971 and became a member of Battalion 305, Zone 304, Section 30. Mr. Sen was ordered to return to his home village in 1976. Upon returning, he was arrested and detained for ten days, after which he, with the consent of his family, was arranged to marry a woman. He was sent to work in the mobile unit as a tree climber. Mr. Sen recalls a relative integration of the Cham and Khmer people in his village, although practicing religion, wearing Cham clothing and speaking Cham were all forbidden. A large scale purge of the mid-level to high-ranking Northwest Zone Cadres took place in 1976 and 1977 as they were subsequently replaced by Southwestern counterparts. Sen told the Trial Chamber that he was assigned to accompany the Long Sword Group - a militia group created to track down and arrest Chams. He explained that all Cham people in the two villages were arrested in one day, perhaps 200-300 individuals, and that he was tasked to lead the arrested people to Wat Au Trakuon. The next day, Mr. Sen was told by a cadre that the arrested Cham people had been smashed during the last night. In 1979, Mr. Srun was assigned as village chief, after which time he ordered the exhumation of several mass graves surrounding the village.



**Mr. TAY Koemhun, testified on 16 September**

Mr. TAY Koemhun testified that his house was 50 metres away from the Wat Au Trakuon pagoda, where he saw multiple people being directed four or five times per day. Men, women and children were led to the pagoda which played loud music; the older ones were tied up with rope as the younger children followed behind. The witness was not aware of the reason

why people were being taken to the pagoda, but other villagers told him that they were being killed inside while the loud music was being played. The witness was tasked to harvest rice and had his life threatened twice by cadres. After the regime was over, Mr. Tay confirmed that Chams were no longer in his village.



**Mr. SAMRIT Muy, testified on 15 September**

Mr. Samrit Muy, 68, was born in Kang Meas District in Kampong Cham province. He testified about the arrest of many Cham people in the Sach Sou village and their subsequent disappearance in the Au Trakuon pagoda. The witness was a worker at a rubber plantation in Peam Chi Kang until the B-52 bombings, and was later appointed to 'Commune Militiaman' in Sach Sou village, adjacent to Sambuor Meas village. The witness told the Trial Chamber about one large arrest where all the Cham people living in Sach Sou village, except for one family (that is a husband and a wife) that was arrested. This took place after the establishment of the so-called Long Sword Group by the Southwest group, as recalled by the witness. From a distance, the witness said he saw how the Cham people were taken to the Au Trakuon pagoda 'to be killed'. Despite never having seen any killing, the witness assured the court that 'those who were brought into that pagoda would never return'.



**Mr. HIM Man, testified on 17 and 28 September**

Mr. Him Man, a Civil Party, 66, was born and currently resides in Sauk Sau village in Kampong Cham. He stated that the Khmer Rouge viewed the Cham people as "enemy number one" and forced them to eat pork, cut their hair, and stop doing religious displays such as praying. Even if these rules were obeyed, many Cham people were removed from the village and executed by

the Khmer Rouge The Civil Party said he had observed some of the killings while hiding in the bushes. Mr. Him said that he and his wife escaped persecution by hiding in a nearby pond for nearly four months before being captured and subsequently sent to a detention facility. Later, while he was aboard a boat ostensibly bound for execution, Mr. Him was rescued by the Vietnamese.



**Ms. NO Sates, testified on 28 September**

Ms. No Sates, 57, was born and still lives in the Srei Klang Village, Srei Klang Commune. Srei Klang was at the time considered a Cham villager and, after a quelled rebellion, she and nearly three hundred other villagers were quarantined in a warehouse with no access to food or medical supplies. All were forbidden to speak Cham or practice Islam, and many died as a result of confinement and lack of access to vital resources. Ms. No stated that the Chams were targeted - especially men - and often taken away at knife-point, and that she lied about being Khmer for fear of execution. The Khmer Rouge tasked Ms. No and her fellow villagers with constructing a large dam and digging graves, during which time both of her parents died. She contracted dysentery.



**Mr. SOT Sophal, testified on 29 September**

Rice farmer Mr. SOT Sophal, aged 51 at the time of the trial, recalled his experience working at the Trapeang Thma Dam (TTD) worksite. He was transferred to the TTD worksite after being one of 2,000-3,000 children working at a Kam-pok Plantation. At the TTD site, he was part of the Special Children's Unit assigned to dig and carry dirt, enough to meet the ever increasing daily quota. Working from 3am until 11am, then 2pm until 11pm, Mr. Sot states that if you didn't meet the daily quota your food rations were significantly reduced. He saw workers fainting and dying because of too much work.





Mr. BAN Seak, testified on 5 and 6 October

Mr. BAN Seak, aged 61, testified how he was appointed as the Deputy Chief of Public Works after the purges of the North Zone cadres occurred. During his time as Deputy Secretary, So Soeun, wife of Ke Pauk, was appointed District Chief of the Chamkar Leu District. Being tasked with supervising the Lvea and Chamkar Andong villages, he was unaware of any Cham people living within the areas because they were forbidden to practice their religion. The witness was not aware about the fate of approximately 1,000 Cham families reported missing from the Chamkar Leu district. Mr. Ban, who lost two of his siblings during this time, reaffirmed that people were killed regardless of their race or religion. He was told by the district committee members that Nuon Chea acted as one of the key advisors on certain “policies”. Mr. Ban said he had no authority to decide who would be executed; the orders came from the upper levels, and stated that no one was spared from the purges. If you opposed the regime, you were the enemy. He recalled seeing corpses, some in unknown military uniforms, floating down the Mekong near Trea Villiage. Some did not have heads.

## Judicial Updates

### Supreme Court Chamber

In September, the Supreme Court Chamber continued its consideration of the appeals from the case 002/01 trial judgement, as well as Nuon Chea’s requests for additional evidence on appeal.

On 7 September, Nuon Chea filed a request for investigative action into the events described during the testimony of Sam Sithy, to which the Co-Prosecutors and the Civil Party Lead Co-Lawyers responded on 18 September.

On 11 September, Nuon Chea filed his sixth request for additional evidence on appeal, to which the Civil Party Lead Co-Lawyers responded on 29 September. On 30 September, the Co-Prosecutors requested additional pages and to file in one language only their response to Nuon Chea’s sixth request.

On 15 September, the Witness and Expert Support Unit received 20 transcripts from Robert Lemkin, upon prior instruction of the

Supreme Court Chamber, of interviews of four individuals he and Thet Sambath (film producers) held. WESU forwarded the transcripts to the Supreme Court Chamber by email on the same day.

Consideration of requests for additional evidence, the request for investigative action, as well as the Defence’s and Co-Prosecutors’ respective appeals, continues.

### Trial Chamber

The Trial Chamber sat for 12 hearing days in September, during which it heard 6 witnesses and 7 Civil Parties, including two days of Civil Party statements of harm suffered in relation to the Trapeang Thma Dam and 1st January Dam worksites.

On 1 September, following the recent deaths of Civil Parties NHEM Chin, SAY Thoeum and SON Roeun, the Trial Chamber found that their respective civil actions could be continued by their successors.

Also on 1 September the Trial Chamber delivered an oral decision on the Co-Prosecutors’ request regarding the key document presentation hearings regarding worksites in Case 002/02. Following the withdrawal from court of Defence counsel for NUON Chea and KHIEU Samphan during the first day of key document presentation hearings on worksites, the Co-Prosecutors requested that the Trial Chamber continue to hear the Co-Prosecutors’ and Civil Party Lead Co-Lawyers’ presentations the following day, whether or not counsel for both Accused chose to participate in the hearings. The Co-Prosecutors further requested that counsel explain their conduct to the Chamber. In its oral decision, the Trial Chamber found that, based on assurances provided by Defence counsel for both Accused, it was not necessary to take any future action with respect to the Co-Prosecutors’ request at this time.

On 8 September, the Trial Chamber granted a request of the Co-Prosecutors to admit transcripts dated 2, 3 and 6 July 2015 from the appeals proceedings in Case 002/01. The Trial Chamber found that the appeals transcripts were unavailable before the opening of the trial in Case 002/02 and that their admission would be conducive to ascertaining the truth.

On 15 September, the Trial Chamber issued a decision on the NUON Chea Defence’s Request to admit seven documents pursuant to Internal Rules 87(3) and 87(4). The Trial Chamber found that the relevant documents, being six written records of interview and an annex from the Case 004 investigations, were unavailable before the opening of the trial in Case 002/02 and that their admission would

be conducive to ascertaining the truth.

On 22 September, following the International Co-Prosecutor’s announcement of his intention to provide the Parties and the Trial Chamber with approximately 2,200 Civil Party applications, the Trial Chamber issued guidelines on the disclosure of Case 003 and 004 Civil Party applications in Case 002/02. The Trial Chamber directed the Co-Prosecutors to disclose: (1) Civil Party applications from Cases 003 and 004 which in the actual knowledge of the Co-Prosecutors may suggest the innocence or mitigate the guilt of the Accused; (2) the Civil Party applications of individuals previously interviewed by the OCIJ in Case 002; and (3) the Civil Party applications of individuals who have been heard or are likely to be heard in Case 002/02. The Trial Chamber clarified that if the Co-Prosecutors wish to place other Civil Party applications on the Case File, they should seek to do so pursuant to Internal Rule 87(4).

On 23 September, the Trial Chamber issued guidelines on the new modalities for use of the Daily Trial Documents Interface. The Trial Chamber noted that the Parties had commenced a practice of emailing the Trial Chamber’s Senior Legal Officer when they had missed the deadline for uploading the documents they intended to use in the questioning of a witness or Civil Party to the ZyLAB Daily Trial Documents Interface. The Chamber announced that it had instructed the Records and Archive Unit to remove restrictions on the Interface which prevented the uploading of documents after the deadline, which will now be highlighted, allowing the Parties to object in court to the use of such documents.

Also on 23 September, following submissions by the Defence teams in Case 002/02 that they are under-resourced due to the ongoing disclosures from Cases 003 and 004, the President of the Trial Chamber wrote to the Office of Administration requesting clarification on whether the NUON Chea Defence Team had formally requested additional resources and for information on the outcome of any such request. The Trial Chamber further asked the Office of Administration whether extra resources could be made available to the Defence teams in view of the additional workload. The Acting Director and Deputy Director of the Office of Administration responded on 28 September that the NUON Chea Defence Team has not formally requested any additional resources since January 2015 and that the Office of Administration remains ready to support the judicial process where deemed necessary by the Trial Chamber.

On 30 September, the Trial Chamber issued a decision on the Co-Prosecutors’ request to “correct or supplement” two docu-



A group of Cham visitors watch the ongoing Court proceedings as Witness Mr. SOS Ponyamin testify before the Court on 8 September 2015. (Photo credit: ECCC)

ments admitted into evidence in Case 002/02: E3/1900 (S-21 List of Prisoners Smashed on 6 March 1978); and E3/7403 (S-21 Confession of Heng Rin alias Mei). The Trial Chamber noted that due to a clerical error an incorrect Khmer version of E3/7403 had been placed on the Case File and granted the request to replace the current Khmer version with the correct document. The Trial Chamber noted that the English and French translations of E3/1900 were already on the Case File and decided to admit the original Khmer version of the document without further review. The Co-Prosecutors further requested the admission of two related documents, a request which the Trial Chamber found was untimely but in the interests of justice and conducive to ascertaining the truth. The Chamber accordingly granted this part of the request.

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

### Pre-Trial Chamber

On 23 September 2015, the Chamber rendered its Considerations declaring that it could not attain the required majority of four affirm-

ative votes in order to reach a decision on Meas Muth’s Urgent Request for a stay of execution of an arrest warrant issued by the International Co-Investigating Judge against him (PTC 03/23). Further, the Chamber completed its deliberations on an appeal against the International Co-Investigating Judge’s Decision on a motion relating to validity of actions in Case 004 (PTC04/20) and on a Motion for annulment relating to investigations in Case 003 (PTC03/20). The decisions on these cases are expected to be issued soon.

During September 2015, the Chamber entered into full deliberations on two other appeals against Decisions of the International Co-Investigating Judge relating to proceedings in Case 003 & 004 (PTC 03/21 and PTC 04/19) and reached the final stages of preparing for full deliberations on an appeal filed by Meas Muth against the notification of charges by the International Co-Investigating Judge (PTC 03/22).

The Chamber remained seized of three other appeals and motions filed during the month of August, including: i) MEAS Muth’s Request to Reclassify as Public Certain Defence Submissions to the Pre-Trial Chamber (PTC 03/24); ii) MEAS Muth’s appeal against

the International Co-Investigating Judges’ Decision on Motion to Strike the International Co-Prosecutor’s Supplementary Submission (PTC 03/25); and iii) TA An’s Application for Annulment of Investigative Action Concerning Forced Marriages (PTC 04/21), which was referred by the International Co-Investigating Judge. The appellate proceedings on these cases are at the stage of receiving the parties’ briefings. Further, on 22 September, the Chamber was seized of a new appeal filed by Meas Muth against international Co-Investigating Judge (Bolhander’s) re-issued decision on Meas Muth’s motion to strike the international co-prosecutor’s supplementary submission (PTC03/26). At the end of September, the Chamber was formally seized of a total of nine appeals and motions relating to the investigations in cases 003 and 004.

### Office of the Co-Investigating Judges

During the month of September, 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 eight PVs were taken and two investigative action reports were drafted. Five witnesses were interviewed on ECCC



premises. In Case File 004, six field missions took place, resulting in 19 interviews and eight investigative action reports and one site identification report being drafted. Nine witnesses were interviewed at the ECCC premises.

During the month of September, the OCIJ Analysts Unit reviewed several thousands of contemporaneous Khmer Rouge documents and witness interviews at external archives. Our review continued of over 3,000 prisoners logs held at Khmer Rouge Security Centers and a list of over 4,000 confessions held at Khmer Rouge Security Centers is being drawn. Additionally, the Analysts Unit assisted and participated in all field missions and in-house interviews conducted during the month of September.

In September, the OCIJ recognized one additional civil party lawyer in Case File 004. The supplementary information and civil party applications in Cases 003 and 004, which presently total in excess of 2,344, 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 September, with the appeal litigation in Case 002/01 moving towards final oral arguments in November, the trial hearings in Case 002/02 continuing and the investigations in Case 003 and 004 steadily proceeding the Co-Prosecutors, their staff and interns have been fully engaged across all four cases.

#### Case 002/01

In the framework of the appeal, the Co-Prosecutors responded to Nuon Chea's request for investigative action into events described during the testimony of Sam Sithy. The Co-Prosecutors also requested additional pages and permission to file in one language their response to Nuon Chea's sixth additional evidence request.

#### Case 002/02

Throughout September, the trial hearings continued. The trial segment relating to crimes committed at Trapeang Thma Dam was completed and the segment relating to the treatment of the Cham began. The International Co-Prosecutor requested to call three additional witnesses and admit new evidence relating to the Cham that had been recently obtained in other ECCC investigations. The prosecution continued to fulfil its disclosure obligations by filing relevant statements obtained in Case File 004 into Case 002 after these disclosures were authorized by the International Co-Investigating Judge. In addition the Co-Prosecutors also responded to Khieu Samphan's motion regarding the Co-Prosecutors disclosure obligations.



Witness Mr. Samrit Muy before the Extraordinary Chambers in the Courts of Cambodia in Case 002/2 against Nuon Chea and Khieu Samphan on 15 September 2015. Also in the picture is ECCC Press Officer Pheaktra Neth doing a Court orientation to a group of Cham visitors. (Photo Credit: ECCC)

#### Cases 003 and 004

In Case 003, and in view of the complex legal and factual questions regarding the scope of the investigation in this case, the International Co-Prosecutor filed a request for extension of time to respond to Meas Muth's appeal against the International Co-Investigating Judge's re-issued decision on his motion to strike the Supplementary Submission. In Case File 004, the International Co-Prosecutor responded to Ao An's application to annul the investigative action concerning forced marriage. Both Co-Prosecutors also filed their submissions relating to whether Im Chaem should be considered a "senior leader" or among "those who were most responsible" for the crimes committed in Democratic Kampuchea. Outreach The International Co-Prosecutor participated in a debate at USC Law School in California, discussing the possibility of Justice decades after genocide. Other assistant prosecutors also discussed the work of the ECCC with representatives of the Centre of Peace and Conflict Studies from Siem Reap and students from the American University in Phnom Penh.

#### Defence Support Section

##### Trial Proceedings in Case 002/02

In addition to participating in the daily trial hearings in Case 002/02, the Nuon Chea Defence filed several motions and responses

before the Trial Chamber (TC): i) It responded to the Civil Party Lead Co-Lawyers' request for the TC's clarification on the scope of the examination of a civil party; ii) it requested for an additional witness to be summonsed in relation to the Trapeang Thma Dam worksite; iii) it responded to the International Co-Prosecutors' request for additional witnesses in relation to the treatment of Cham people; and iv) it requested the TC to expedite the appearance of two witnesses and summons four more in relation to the treatment of Cham people.

Throughout September, the Khieu Samphan team continued to attend and participate in the hearings of Case 002/02. They have filed several submissions, all related to the International Co-Prosecutor's (ICP) disclosure, in the ongoing Case 002/02 trial, of massive amounts of material from the confidential investigations underway in Cases 003 and 004. According to the Khieu Samphan team, the ICP must disclose only exculpatory material and prior statements of individuals called by the Trial Chamber and the fact that the ICP maintains that he must disclose "relevant material, whether inculpatory or exculpatory" amounts to an interference with the administration of justice.

##### Appeal Proceedings in Case 002/01

The Nuon Chea Defence filed its sixth re-

quest for additional evidence in relation to the trial judgement of Case 002/01 before the Supreme Court Chamber (SCC), requesting that the SCC admit 22 pieces of new evidence and summons two additional witnesses. The Nuon Chea Defence also filed a request for investigation into the events described in witness Sam Sithy's in-court testimony.

The Khieu Samphan Defence has also informed the Trial Chamber that they will need time (without any hearing in Case 002/02) to prepare the appeal hearings in Case 002/01 when their dates will be announced.

#### Case 003

The Meas Muth Defence team in Case 003, during the month of September, filed two annulment applications to the Co-Investigating Judges, requesting the removal of procedurally defective investigative material from the Case File. It also filed another request and two letters to the Co-Investigating Judges, all of which have been classified as confidential. Before the Pre-Trial Chamber, the Meas Muth Defence filed one appeal and a related notice, also classified as confidential. The team continues to review material on the Case File and to prepare submissions to protect Mr. Meas Muth's rights and interests.

#### Case 004

In September 2015, the Defence team

for Mr. Ao An filed an application to seize the Pre-Trial Chamber with a view to annulment of investigation in a crime site. Further, the team continues to review the evidence in the Case File and to work on submissions to further prepare its client's defence and safeguard his fair trial rights.

Also in Case 004, the Defence team for Ms. Im Chaem filed confidential observations to the Co-Investigating Judges, at the latter's request. The team also filed another confidential submission to the Co-Investigating Judges on a separate issue. Further, the Defence team continues to review the evidence in the Case File and to prepare submissions to protect Ms. Im Chaem's fair trial and procedural rights.

Lastly, the Defence team from the final Named Suspect in Case 004 continued to monitor proceedings in Case 002/02. It continued to assert that the use of documents from Case 004 in proceedings before the Trial Chamber in Case 002/02 constitutes a violation of the Named Suspect's rights. The team continued to work to ensure its clients fair trial rights are protected.

#### Civil Party Lead Co-Lawyers Section

##### Key Legal Developments

The first two trial days of September were devoted to the hearings on harm suffered by

Civil Parties in relation to the worksites trial segment. Nuon Narom, Chao Lang, Sam Sak and Mean Loeuy provided their statements of suffering caused by their experiences at the 1st January Dam and Trapeang Thma Dam worksite. The Civil Party Lead Co-Lawyers further presented the documentary information of several Civil Parties at the Key Documents Hearing for the Worksites Trial Segment.

The Civil Party Lead Co-Lawyers and Civil Party Lawyers then examined seven witnesses for the Treatment of the Cham trial segment and three Civil Parties, Sos Min, Him Man and No Sates.

On 14 September, the Lead Co-Lawyers filed the Civil Party Lead Co-Lawyers' Request for Clarification on the Scope of In-Court Examination of Civil Parties at the request of the Trial Chamber on 25 August 2015. The Lead Co-Lawyers requested that the Trial Chamber confirm the previous directives of the Trial Chamber – namely, that Civil Party testimony as to the facts that they experienced is only limited by the scope of proceedings in case 002/02 and not by the grounds upon which the Civil Party was admitted or to harms that they suffered as a result of the alleged criminal acts.

On 18 September, the Lead Co-Lawyers filed the Civil Party Lead Co-Lawyers' Response to Nuon Chea's Investigatory Requests Relating to Sam Sithy, in which they requested that the Supreme Court Chamber consider the Civil Parties interest in the expeditiousness of proceedings.

On 29 September, the Lead Co-Lawyers filed the Civil Party Lead Co-Lawyers' Response to Nuon Chea's Sixth Request Concerning Additional Evidence on Appeal in which they requested that the Supreme Court Chamber take into account the balance of rights of all of the parties to the proceedings when reaching its decision on the request.

#### Outreach and Activities

The Civil Party Lead Co-Lawyers continue to work with the Victim Support Section to consult with civil parties on potential reparations projects for case 002/02. On 25 September, the Lead Co-Lawyers and the Victim Support Section met with civil parties in Kampot to discuss reparations projects and provide an update on trial proceedings in case 002/02. The civil parties were also updated with respect to the implementation of reparations projects judicially recognized in case 002/01. The Lead Co-Lawyers and the Victim Support Section continue to liaise with NGOs, donors and other stakeholders with respect to the development and implementation of these projects.



## 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. Processing and analysis

The Processing and Analysis Team (PAT) continued to collect supplementary information in Cases 003 & 004 through phone calls made to applicants having been suffered from alleged crimes under the investigation scope of Cases 03 and 04. During the month, the team filed 14 pieces of supplementary information in Cases 003 & 004 to the OCIJ. So far, the total pieces of 320 of supplementary information have been filed in both Cases. As of 30 September, there were 1966 applicants in total for both Cases 003&004.

### Outreach

During the month, Outreach Team invited 76 civil parties from Banteay Meanchey, Kratie, Kandal, Sihanouk Ville, Kampong Chhnang, Stung Treng, Battam Bang, Pursat, and Kampong Cham 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.

On 25 September, under the financial support of Civil Peace Service (CPS)/ German Agency for International Cooperation (GIZ), Victims Support Sections and Civil Party Lead-Co Lawyers' Section of ECCC co-organized the Civil Party Consultation Forum in Kampot province on Judicial Reparation in Case 002/02 with 69 Cham civil parties, including focal persons, from Kampot, Sihanouk Ville, and Koh Kong. National and International Lead Co-Lawyers were the speakers and spoke about the ECCC's current proceedings, and reparations, and to answer and clarify questions or concerns of Civil Parties in the forum.

The purposes of the forum were (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 the issues related to the hearings of case 002/02 and proposed reparation requests Case 002/02.

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

The Reparation & Non-Judicial Measure (R&NJM) Team has coordinated the implementation of all R&NJM projects through meetings and technical support communication.

On 29 September, the team's members participated in a Monitoring Meeting with CPS at GIZ office. The meeting was conducted to monitor the implementation progress of partners who have received financial support from the CPS.

In addition, the team's members had many meetings with Lead Co-Lawyer Section to discuss about case 002/02 reparation requests so as to develop brochure and strategy for fund raising campaign.

## Decisions/Orders

**1 September 2015: Trial Chamber memorandum entitled "Succession of deceased Civil Party NHEM Chin in Case 002" <E2/23/1>**

**1 September 2015: Trial Chamber memorandum entitled "Succession of deceased Civil Party SON Roeun in Case 002" <E2/35/1>**

**8 September 2015: Decision on Co-Prosecutors' Motion to Admit Testimony from the Case 002/01 Appeal Evidentiary Hearings of 2, 3 and 6 July 2015 <E356/2>**

**15 September 2015: Decision on NUON Chea's Rule 87(4) Request for Admission of Six Statements and One Annex Relevant to Case 002/02 <E319/30/1>**

**22 September 2015: Trial Chamber memorandum entitled "Trial Chamber Guidelines on the Disclosure of Cases 003 and 004 Civil Party Applications in Case 002/02" <E319/14/2>**

**23 September 2015: Trial Chamber memorandum entitled "New Modalities on Use of Daily Trial Documents Interface" <E341/1>**

**30 September 2015: Trial Chamber memorandum entitled "Decision on Co-Prosecutors' Request to Correct and Supplement Documents Relating to Sector Mobile Chief Ta Val and Sector 5 Secretary Heng Rin" <357/1>**

## ECCC Outreach

The Public Affairs Section of the ECCC hosts Khmer Rouge Tribunal Study Tours, bringing groups of 200-300 villagers from areas throughout Cambodia twice a week to the ECCC, the Tuol Sleng Genocide Museum and the Choeng Ek killing fields for a guided tour and briefings. During the trial recesses, the Public Affairs Section also conducts school visits to give briefings, as well as hosting community video screenings across Cambodia. It also welcomes international group visitors and provides briefings and court tours.

### Past Events

**October 22** – ECCC Weekly radio program on WMC FM 102

**October 21 & 20** – The ECCC hosted nearly 300 members of the military and government in order to promote education and understanding of the court's proceedings. Although no public hearings were held, the tour consisted of presentations from staff members and was followed by tours of Tuol Sleng and Cheung Ek.

**October 8** – ECCC Weekly radio program on WMC FM 102 with Guest speaker Mr. Kong Sam Onn, Khieu Samphan National Co-lawyer

**October 7** – Nearly 150 civil servants from Cambodian courts across the country visited the ECCC to have an in-depth look at the court and its functions. These civil servants ranged in status from lawyers to judges, presidents, and vice presidents of their respective institutions.

**October 6** – Kungfuture, a NGO that assists several communities, brought a small group of Cham from a community who resides in boats on the Mekong and Tonle Sap. Most of the families were displaced by the Khmer Rouge, yet knew very little about the ECCC; therefore the visit offered a very important educational experience.

**October 5** – Mr. Neth Pheaktra joined KRT Talk for a live call in program on WMC FM 102 to field questions regarding the ECCC and the Khmer Rouge Tribunal. The event was organized by The Cambodian Human Rights Action Committee.

**September 30** – A group of 10 students and lecturers from American University of Phnom attended court hearing and were briefed by Public Affairs Section, the Office of the Co-Prosecutors and representatives from the Defense.

**September 29** – Members of the Swedish-based Raoul Wallenberg Institute of Human Rights and Humanitarian Law visited the ECCC with the purpose of analyzing not only the court's legal operations, but also its commitment to humanitarian law.

**September 28** – A group of 32 legal professionals from Laos organized by Australia-Asia Program to Combat Trafficking in Persons (AAPTIP) made a full day visit to the court. The aim for their study tour was to understand the importance of victim sensitive court room procedures, of the defense counsel in the judicial process, and good court administration and case management practices.

**September 17** – A group of 20 Burmese journalists from the Centre for Peace & Conflict Studies and eight students from Youth for Peace visited the ECCC to better understand how the court functions. Both groups met with various staff members and attended public hearings which featured Civil Party testimonies regarding the Cham people.

### Recurring Events

ECCC Weekly radio program on WMC FM 102 from 6PM to 7PM every Thursday.

## New cooperation between PAS and TVK and Hang Meas TV

In September 2015, the Public Affairs Section (PAS) has begun cooperating with and Hang Meas TV to broadcast daily summaries of trial hearings at the ECCC. Usually consisting of extractions of testimonial videos from witnesses and court proceedings, this broadcast is a great media platform for an ECCC spokesperson and Mr. Meas Rithy to discuss the latest updates from the tribunal. It is aired during the morning news between 08:00-10:00 and the evening news between 17:30-19:00.

Additionally, the National Television of Kampuchea (TVK) is producing 5-minutes news features on the trial proceedings twice a week for their programme TVK One Angle. This programme broadcasts every Tuesday and Friday between 18:00-18:30 and 22:00-22:30.

The popularity of these news programs will contribute to court updates reaching all parts of the country. PAS is also continuing the weekly radio programs called "Khmer Rouge Leaders on Trial" on the Women's Media Center of Cambodia (WMC)'s radio station, FM102 from 18:00-19:00 every Thursday evening. This is broadcasted on WMC's national substations as well.



Ministry of Justice Civil Servants Court Visit last 7 October



Military and Government Officials Court Visit last October 21-20

## Cham reaction to the trial of Khmer Rouge leaders

After visiting the Extraordinary Chambers in the Courts of Cambodia and hearing witness testimonies in Case 002/02 against former Khmer Rouge leaders Khieu Samphan and Nuon Chea regarding the allegation of genocide of Cham people, some Cham told their personal stories.

During a visit to the ECCC on Tuesday, October 6, 2015, Mr. Tres Hamid, 73, said that he and 150 fellow Cham from the Chroy Metre village, Mukkom Pul District, Kandal province, were forcibly evacuated by the Khmer Rouge to the Mong Roeusey district in Battambang. He further explained that his parents, brothers, sisters, and wife's entire family died as a result of forced labor, malnutrition and starvation. Hamid whispered with a hurt voice that he is filled with anger toward the Khmer Rouge leaders.

Victim Mrs. Sman Niang, 70, also said that her parents died of starvation during Pol Pot's reign and her two brothers were killed for stealing small fruit to survive. Niang shook with tense anger as she said that she would never forget what the Khmer Rouge did.

Another Cham, Mr. Tres Ahmad, 63 said that, during Pol Pot's regime, he was forced to cut and haul lumber by day as part of a land clearing initiative and by night he had to plant rice. During this period, the Khmer Rouge fed Mr. Ahmad very little and he became emaciated. Although he is happy to see the Khmer Rouge leaders brought to trial, Mr. Ahmad admits that the horrors of the past still feel like a vivid nightmare.



Local visitors line up to watch the trial proceedings on the Treatment against the Chams last 15 September 2015. (Photo Credit: ECCC)





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

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



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## The Court Report

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