

The Court Report

January 2009



The Extraordinary Chambers in the Courts of Cambodia

Moving Forward Through Justice

In this issue

- 2 News and Notes
- 3 Judicial Updates
- 8 Public Information & Outreach
- 9 Court Calendar
- 10 NGO Page
- 11 Outreach Calendar
- 12 Find Out More

The Extraordinary Chambers started the year 2009 with a Trial Management Meeting regarding the Case File No. 001 dealing with Duch. The meeting was organized to allow exchanges between the parties, to facilitate the setting of the dates of hearings and to review the status of the case.

In the Judicial section, featured are Office of the Co-Prosecutors, Office of the Co-Investigating Judges, Pre-Trial Chamber and the Victims Unit.

This issue also has an article about Court interns, who play an important role in the ECCC and work hard to provide justice to the Cambodian people.

As usual, included are also the Court and Outreach Calendars.

34 nationalities working in the Extraordinary Chambers

As a working environment, the ECCC is really multicultural and international. At the moment there are 34 different nationalities represented among the staff of ECCC. And with the arrival of new international employees in next few months, the number will rise to 36.

The largest share of the international staff comes from Australia with 13 staff members. Not lagging far behind are United States and France, with 12 staff members from both countries.

In total, there are around 350 staff members and 40 interns, both national and international, working at the ECCC. With the commencement of the trials, the amount of the staff is expected to increase.

Trial Chamber organizes a Trial Management Meeting

In order to facilitate the fair and expeditious conduct of the proceedings regarding the Case File No. 001 dealing with Duch, the Trial Chamber is holding a Trial Management Meeting on the 15 and 16 January.

The Meeting allows exchanges between the parties, facilitates the setting of the dates of the Initial and Substantive Hearings and reviews the status of the case. After the Meeting, the President of the Trial Chamber will fix the date of the Initial Hearing.

International visitors meet Judge Jean-Marc Lavergne



A group of French-speaking visitors and staff of the French Embassy in Phnom Penh met the Trial Chamber Judge Jean-Marc Lavergne on Friday 9 January (see the picture above). In total there were 90 people in the

group.

On Friday 23 January, Mr. Lavergne will meet an English-speaking group of members of the Women International Group (WIG).



Office of the Co-Prosecutors

Legal Work:

In December 2008, the OCP continued its participation in the judicial investigation and the appellate proceedings in Case File No. 002 in which charged persons Duch, Khieu Samphan, Ieng Sary, Ieng Thirith and Nuon Chea are being investigated. In particular, on 16 December it filed its response before the Pre-Trial Chamber to Khieu Samphan's urgent application for release, filed its Supplementary Observations before the Co-Investigating Judges on the applicability of Joint Criminal Enterprise (JCE) as a mode of liability at the ECCC (31 December), and participated in the public hearing before the Pre-Trial Chamber on Khieu Samphan's appeal on translation rights on 4 December.

Trial Preparation:

The OCP accelerated its trial preparations in Case File No. 001 dealing with the Khmer Rouge's S-21 Security Centre in Phnom Penh. It prepared its audiovisual and other exhibits, witness lists and summaries, and other materials and submitted them as part of the pre-trial package to the Trial Chamber on 18 December. The OCP also submitted its proposed agenda for the Trial Management Meeting scheduled for 15–16 January 2009.



Analysis:

Amongst many other activities, the OCP maintained and updated its case management database (CaseMap), prepared witness summaries of potential witnesses, analyzed open source and in-house documents, updated chronologies of the accused, prepared audio-visual case presentation aids and continued its microfilm digitising project.

It continued to analyze the Case File and prepared Trial Readiness Assessment Reports (TRAR) to assess the requirements of making further investigative requests to the Co-Investigating Judges.

Prosecutorial Disagreement:

On 29 December, the National Co-Prosecutor filed her Response with the Pre-Trial Chamber to the International Co-Prosecutor's Statement of Disagreement filed on 1 December. The disagreement concerns the appropriateness of opening new judicial investigations against certain additional suspects for crimes committed under

the Khmer Rouge. The Statement of Disagreement and the Response contain reasons justifying the two Co-Prosecutors' positions in favour of charging or not charging these suspects.

The International Co-Prosecutor has proposed the filing of two new Introductory Submissions and one Supplementary Submission as, according to him, there are reasons to believe that the crimes described in those submissions were committed, these crimes are within the jurisdiction of this Court, and they should be investigated by the Co-Investigating Judges. He believes that this last set of cases to be prosecuted by this Court would lead to a more accurate accounting of the crimes that were committed under the Democratic Kampuchea regime during 1975–79. He does not believe that such prosecutions would endanger Cambodia's peace and stability.

The National Co-Prosecutor believes that these investigations should not proceed on account of Cambodia's past instability and the continued need for national reconciliation, the spirit of the agreement between the United Nations and the Government of Cambodia ("Agreement") and the spirit of the law that established this Court ("ECCC Law"), and the limited duration and budget of this Court. She feels that this Court should instead prioritize the trials of the five suspects already detained, especially when, according to her, the

Agreement and the ECCC Law envisioned only a small number of trials. She maintains that this Court's mandate can be adequately fulfilled by the prosecution of the suspects already detained.

The Co-Prosecutors now await the determination of this disagreement by the Pre-Trial Chamber. Notwithstanding the disagreement, the Co-Prosecutors have been and shall continue to work together, in all their cases, to ensure that justice is rendered to the victims of the Khmer Rouge.



Iain Morley conducting an advocacy program for the OCP on 23 December

Capacity Building:

Mr. Iain Morley, Barrister and Trial Attorney with the International Criminal Tribunal for Rwanda (ICTR), conducted a short advocacy program for the staff of the OCP on 23 December. He also gave a Tribunal-wide presentation on "Effective Oral and Written Advocacy" on 24 November. Senior Assistant Prosecutor Anees Ahmed presided.

Investigator Craig Etcheson conducted seminars on various issues related to the temporal jurisdiction of the Tribunal for its different organs.

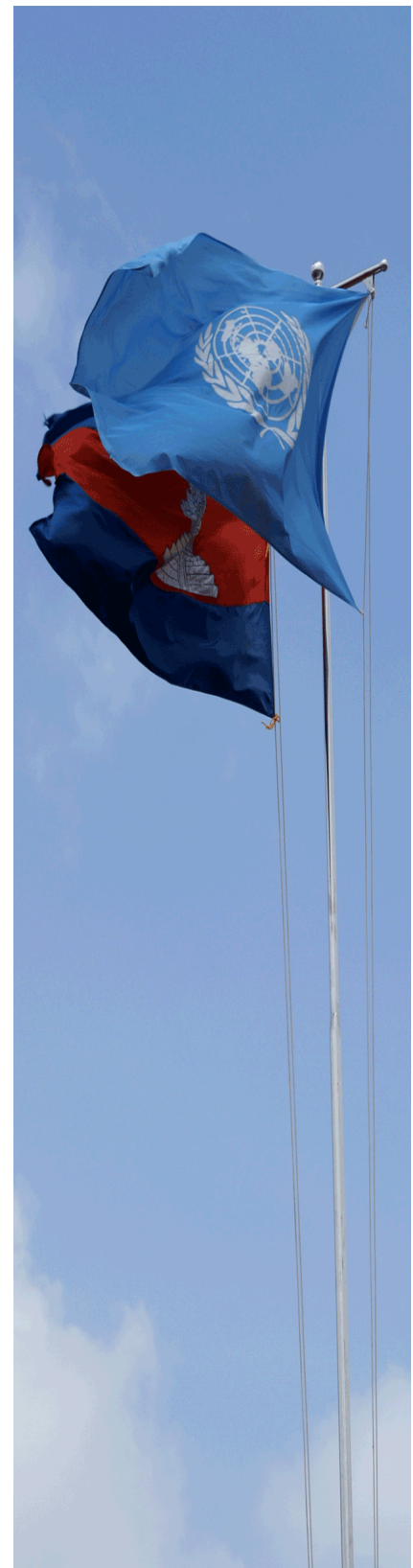
Pre-Trial Chamber

The Pre-Trial Chamber was seized of seven outstanding appeals, ranging from translation rights to provisional detention. It also had a matter of dispute between the Co-Prosecutors.

The Pre-Trial Chamber received requests from the Co-Prosecutors for an extension of time to file their responses to three provisional detention appeals. After seeking the views of the other parties, the Pre-Trial Chamber granted all three requests.

On 24 December, the President of the Pre-Trial Chamber decided that he does not have the jurisdiction to decide on Khieu Samphan's Supplemental Application for release, which was filed in the Appeal against the Order on Extension of Provisional Detention. He therefore declared the Application inadmissible.

The Pre-Trial Chamber informed all Parties that it will meet on the following dates in the first half of 2009: the week of 23-27 February, 2 and 3 April, the week of 1-5 June and the week of 27-31 July.



Office of the Co-Investigating Judges

The Office of the Co-Investigating Judges remains seized of Case File No. 002 and the myriad alleged crimes which took place throughout Democratic Kampuchea between 1975 and 1979. The investigation in Case File No. 002 includes all five of the Charged Persons (Nuon Chea, Ieng Sary, Ieng Thirith, Khieu Samphan, and Duch) as well as numerous specific locations and thematic events which require our continued examination and analysis.

The Office of the Co-Investigating Judges (OCIJ) bid farewell to its Senior Judicial Coordinator, Ms. Anna Marie Austin this December. We would like to thank her for her invaluable service to the ECCC and the OCIJ in particular.

Despite this loss, the OCIJ has successfully tailored its work plan, resource allocation, and strategy to focus solely on Case-File No. 002. OCIJ staffing is nearly complete and, with the expected arrival of a new International Legal Team leader, the office is restructured, integrated and equipped to address and manage the investigation, and any requests from the Co-Prosecutors, the five defence



Farewell ceremony for Ms. Anna Marie Austin of the OCIJ

teams, and the civil parties.

In December the Office of the Co-Investigating Judges (OCIJ) had a full schedule. Following their September 2008 request, the OCIJ has received, as of 31 December 2008, submissions from all of the parties with regard to Joint Criminal Enterprise (JCE). We are currently analyzing these documents and preparing our decision on this fundamental issue.

We received numerous requests for acts of investigation from defence teams over the past few months and are considering and responding to these requests in accordance with our investigative strategy.

The OCIJ have also requested cooperation from various governments in securing cooperation, physical evidence, and testimony from sources which are only available in those states.

With regard to field investigations, the OCIJ is nearing completion in its examination of the "crime base." This aspect of the investigation refers to the distinct locations and thematic events listed in the Introductory Submission which form the basis of what the Co-Prosecutors characterized as widespread and systematic abuse in Cambodia in the years of Democratic Kampuchea. Investigators from the OCIJ continue to leave and return from nearly every province in Cambodia as we finish this aspect of the



investigation.

At the same time, the OCIJ is interviewing key witnesses to events, persons, structures, and policies of the Communist Party of Kampuchea (CPK) and other groups and organizations present and relevant to the events in Cambodia between 1975 and 1979.

Our analysts, investigators and lawyers continue to examine the links between the crime base and the policies, actions and relationships of the charged persons in order to determine the proper scope of any criminal liability for the events that took place during Democratic Kampuchea.

The OCIJ has also delivered a number of orders in the final weeks of 2008 which pertain to multiple aspects of procedure and investigations.

The Charged Persons in custody continue to receive routine daily medical examinations which ensure that any necessary medical attention, whether it is provided at the detention center or in hospital, can be procured when needed. The Charged Persons also receive frequent visits from family members and continuous access to their defence lawyers and their teams. As required by the Internal Rules, regular hearings between the Charged Persons and the Co-Investigating Judges concerning the conditions of detention at the ECCC also continue.

There are currently 25 Civil Parties to Case File No. 2. Understanding that this aspect of the work of the ECCC will be a significant part of the court's leg-

acy, the OCIJ continues to work hand in hand with the Victims Unit to accommodate and assure efficient participation of the victims in the investigation phase of the proceedings.

Victims Unit

Last December the ECCC and the GTZ signed and put in motion the project called the Victims' Improved Participation in the Proceedings of the ECCC. This includes funding to complement the budgetary resources allocated to the Victims Unit and allows the Unit to become fully operational.

Given these new events, the Unit has finally started recruitment which will allow implementing its comprehensive mandate in an effective and efficient manner contributing to the participation of victims in the proceedings. The Unit would like to welcome and introduce the new staff members who have recently joined the ECCC.

Hang Vannak recently joined the Victims Unit as the Complaints and Civil Party Applications Manager. He studied law at the Community Legal Education Center in Phnom Penh and obtained an L.L.M. in International Human Rights Law from the University of Essex in Great Britain. He previously worked as the Coordinator for United Nations Inter-Agency against Human Trafficking in the Mekong Sub-Region (UNIAP) and taught law at a Cambodian university. He decided to

join the Victims Unit in order to contribute his experience to the development of the Victims Unit and practice his legal education. Vannak is leading the team in charge of processing complaints and civil party applications.

Balazs Maar, Hungarian, with a background in conflict and security studies, joined as International Analyst



Arunvattey Chaosen

Consultant on a short term contract. Balazs will also be working as an advisor with the team processing complaints and civil party applications. Balazs joined the Victims Unit after his involvement in France with civil society organizations advocating the incorporation of victims' rights in the ECCC proceedings.

Arunvattey Chaosen, Legal Assistant. She studied law at the Royal University of Law and Economics (RULE) in Phnom Penh, Cambodia. Arunvattey joined the Victims Unit with experience working on human rights cases in Cambodia. She hopes to contribute her

experiences to helping victims as well as expanding her learning through her work. Arunvattey manages the Unit's list of lawyers and issues related to legal representation of Civil Parties.

Ke Charkrya Joined the Victims Unit as an Administrative Assistant with over nine-years of experience in the field of administration and finance. Her extensive former work experiences were with different international organizations such as European Union, DANIDA, IMF, and UNDP/UNOPS and other United Nations Projects. Charkrya joined the Victims Unit to contribute her experience in supporting the Victims Unit as well as to learn from the experience.

The Unit is confident of the abilities, dedication, and ethical commitment of these new staff members and rests assured that they will contribute significantly to the success of our activities in the future.

The Unit is also recruiting an Outreach Coordinator and three Outreach Facilitators as well as six Data Entry Clerks for the processing of complaints and civil party applications. Although resources are limited and the ECCC has not established a legal aid scheme, the Unit has envisioned the implementation

of one legal team per case in order to support the legal representation of civil parties. Each team will include a National and an International Co-Lawyer, an International Legal Consultant and a Case Manager. The Unit is also in the process of recruiting a Finance and Administration Manager, a Help-Line Operator, an Interpreter, and a Photographer.

In addition, recruitment for a successor to the Deputy Head of the Victims Unit, Ms. Gabriela Gonzalez-Rivas who has

served in this function since the Unit's inception, has begun. Gabriela's invaluable time and dedication to the establishment and growth of the Unit will be missed.

The Victims Unit will continue contributing to supporting the rights of victims, and the paramount aim of the collective efforts of the ECCC which endeavours to ensure that the voices of victims of the Democratic Kampuchea is heard during the criminal proceedings.



Ke Charkrya, Hang Vannak and Balazs Maar

NUMBER OF COMPLAINTS/CIVIL PARTY APPLICATIONS

RECEIVED BY THE ECCC IN DECEMBER 2008

Date of Receipt	Number of Complaints/Civil Party applications
December 2008	133
Total:	2856

Information on the Web



<http://www.krtrial.org>



<http://www.cambodiatribunal.org>



Outreach & Public Information

ECCC interns work hard to provide justice to the Cambodian people

Interns from around the world play an important role at the ECCC. There are at the moment around 30 international and eight national interns at the court and they do various tasks.

At the moment, there are interns working in the Trial Chamber, Pre-Trial Chamber, Office of Co-Investigating Judges, Office of the Co-Prosecutors, Defence Support Section, Victims Unit and Public Affairs Section.

In all those offices, interns carry out numerous tasks and work full-time almost like staff members.

"Interns' work is indispensable for our office. They do almost everything that staff members do. They work on every level of the office the under supervision of permanent staff members," tells Anees Ahmed from the Office of Co-Prosecutors.

"Our interns draft documents, do legal research and factual analysis, and carry out lots of other important tasks. Usually we have about eight international and from one to four national interns at once."

Most of the interns are students of law or recently graduated lawyers, but there are also some with background in social sciences or humanities.

Grants easier to get in developed countries

Pauline Baranes from the Defense Support Section agrees that interns are an invaluable part of the Court.

"This is part of our staffing policy. We hire interns do a certain percentage of the work in our office and their contribution is remarkable. I think this internship system is very good. The interns at ECCC are highly educated and they are a big help to us. On the other hand, work in the Court is valuable experience for the interns as well", she tells.

Even though interns come from a wide variety of countries, Baranes has noticed that a substantial number of them, at least in her section, are from Western countries.

"Apparently for the youth of the developing countries, it is very difficult to get funding for internships. There are not so many grants available as in the developed world and interns do not get paid by the Court."

Overall, interns form a substantial part of the workforce at the ECCC. Usually internships are from 3 to 6 months in length. New interns arrive at the Court every month.

Sen Sinal

I am Cambodian and I am 24 years old. I am interning in the Office of the Co-Investigating Judges.

I graduated from the Royal University of Law and Economic Sciences in Phnom Penh. I will continue to study for a Master's degree in the same university.

I have been at the ECCC for six months and I have really enjoyed my time here. As an intern in the Court, I do a lot of legal tasks with both national and international staff members.

It is a great experience to work here and get knowledge and skills regarding international law and international legal standards.



Sen Sinal and Fitria Chairani

Fitria Chairani

I am from Indonesia and I am 23 years old. I am doing my internship in the Office of Co-Prosecutors.

I studied law at the University of Indonesia in Jakarta. This year I will go to the National University of Singapore for my Master's programme.

I have been here so far for two weeks and I have enjoyed my time in the Court. The working environment is very nice. People are friendly, helpful and encouraging. I really like my work even though it is often also quite challenging.

Court Calendar



Recent Decisions

24 December 2008: Decision on Khieu Samphan's Supplemental Application for release [Khieu Samphan's Appeal against Extension of Provisional Detention]

24 December 2008: Decision on the Co-Prosecutors' Application for Extension of Time to File their Response to the Charged Person Ieng Thirith's Appeal against Extension of Provisional Detention

24 December 2008: Decision on the Co-Prosecutors' Application for Extension of Time to File their Response to the Charged Person Ieng Sary's Appeal against Extension of Provisional Detention

8 January 2009: Decision on the Co-Prosecutors' Application for Extension of Time to File their Response to Khieu Samphan's Appeal against Extension of Provisional Detention

(Note: Published decisions are available for download on the ECCC Website under Court Documents at: www.eccc.gov.kh)

Scheduled Court Activities

Upcoming Hearings

15 and 16 January: Trial Management Meeting (closed session)

Kaing Guek Eav (Duch) Initial Hearing, date to be announced



Outreach in Pailin



NGO Page: Partners in ECCC Outreach

Youth for Peace



Youth for Peace (YFP) has established the *Youth for Justice and Reconciliation* project to promote an understanding of youth about the Khmer Rouge history and Extraordinary Chambers in the Courts of Cambodia (ECCC) and by that raise awareness of the post-conflict topics. The project has implemented and achieved its activity plan smoothly. The 14 Understand, Remember and Change (URC) workshops, 14 sets of village dialogues (one village dialogue has two meetings), one trip and one international conference with 350 youth from 15 countries have been completed during the year 2008. The activities have been carried out in the provinces of Battambang, Takeo, Kampong Chhnang, Prey Veng, Svay Rieng and Kampot.

The URC workshops were carried out with high school students and youth who left high schools at their communities. The workshops have reached 429 participants 52%, of them females. The youth who participated in the workshops learned of Khmer Rouge



Youth and villagers from YFP visiting the ECCC.

history and the tribunal and also developed their personal skills like social solidarity. They also had dialogues with old people who are survivors of the Khmer Rouge regime.

In total, 1459 survivors of the Khmer Rouge regime were invited to attend the village dialogues. In the dialogues, the villagers were happy to discuss and tell their stories, feelings and opinions about the Khmer Rouge and the tribunal to the youth. The young people, who were born after the Khmer Rouge regime, were strongly impressed of the stories and opinions of old people which they had hardly believed before. This motivated them to ask questions from the old people which made the dialogues more active. Through the dialogues, the old people were also pleased to see the youth trying to understand their hard lives during the Khmer Rouge regime. They

wanted the youth to learn of that black age and make positive change possible for their next generation. We found the village dialogues to be very good ways to make connections between the generations.

During the URC workshops and the village dialogues, the youth and villagers were also able to see the ECCC compound and meet the court officials for more information. So far 47 people have been brought to the ECCC, Toul Sleng genocide museum and the Killing Fields of Cheung Ek. Discussion and emotional treatment have also been conducted with the psychological experts of Trans-Cultural Psychological Organization (TPO) after visiting the memorial places.

Outreach Calendar



Recent Activities- ECCC and Partner NGOs

30 December: 24 students from the Department of Media and Communication (DMC) of the Royal University of Phnom Penh (RUPP) came to visit the ECCC. They had a tour of the Court and met Mr. Juergen Assmann from OCP.

5 January: The Factory Films met the Chief of Public Affairs and the TV/Radio Officer of the ECCC.

8 January: Ann Clwyd, MP from UK, and Evelyne Coulombe, the Chargé d’Affaires of the Canadian Embassy, had a tour of the Court.

8 January: Dr. Nancy Janus, Associate Professor of Human Development and 17 students from Eckerd College met Reach Sambath, the Press Officer.

9 January: A group of 90 French-speaking visitors and staff of French Embassy met Judge Jean-Marc Lavergne.

9 January: The Coalition for Transparency Cambodia (CTC) brought 18 Korean students to visit the ECCC. They were briefed by Outreach Officer Chin Hemvichet.

Scheduled Activities- ECCC and Partner NGOs

21 January: A group from Geelong Grammar School will visit the ECCC. They will be briefed by the Outreach Officer.

22 January: A group from Berkeley Human Rights Center, University of California, will present the results of their outreach survey relating to the ECCC.

26 January: Centre for Peace and Conflict Studies with the Monterey Institute of International Studies will organise a tour to the ECCC.

30 January: A group of Khmer researchers on the mental consequences of Khmer Rouge regime will visit the ECCC.

2 February: Vice President of the German Bundestag, Dr. Wolfgang Thierse will lead a delegation to the ECCC.

10 February: A group of German journalists will visit the court and meet key officers from the ECCC on a tour sponsored by GTZ.



Find out more about the ECCC



"Everyone can be involved in the process"

Extraordinary Chambers in the Courts of Cambodia

National Road 4, Chaom Chau, Dangkao
PO Box 71
Phnom Penh, Cambodia

Information Centre

Street 21, House 6a, (near Psar Kap Ko)
Phnom Penh Cambodia

Contact the Court

General

Tel: (855) 23 219 814

Fax: (855) 23 219 841

Press Contacts

Tel: (855) 12 488 156

Tel: (855) 12 488 421

Information Centre

Tel: (855) 23 214 291

(855) 23 214 293

(855) 23 214 295



On the Web

ECCC
<http://www.eccc.gov.kh/>

UNAKRT
<http://www.unakrt-online.org>

