



The Court Report

The Extraordinary Chambers in the Courts of Cambodia

Moving forward through justice

In this issue

News & notes

2-3



Supreme Court Chamber conducted first appeal hearing against Trial Judgment on 17 November 2015. Photo Nhet Sokheng



Judicial updates

4-7



Appeal Hearing in Case 002/01 will be resumed in February

According to the order scheduling the resumption of the Appeal Hearing, issued by the Supreme Court Chamber (SCC) on 23 December 2015, the Appeal Hearing will resume on Tuesday, 16 February 2016 at 09:00am in the main courtroom of the ECCC, and continue on Wednesday, 17 February 2016 and Thursday, 18 February, with Friday, 19 February 2016 serving as a reserve day.

SCC also instructs Mr. Phat Poeu Seang, Standby Co-Lawyer for Nuon Chea, to remain present in the courtroom at all times during the Appeal Hearing and to be prepared to take over the defence of Nuon Chea as soon as the Chamber so directs. The role of the Standby Co-Lawyer for Nuon Chea will not be to replace Nuon

Chea's chosen lawyers, but rather to provide proper legal assistance to Nuon Chea during the hearing, should his chosen Co-Lawyers fail to be present in the courtroom when the hearing resumes or absent themselves throughout the course of the hearing. The Standby Co-Lawyer for Nuon Chea shall attend all Appeal Hearings in Case 002/01, shall be independent from the present defence team for Nuon Chea and shall not consult with, or take direction from, Nuon Chea, unless so ordered by this Chamber. The Standby Co-Lawyer for Nuon Chea will, upon reasoned request, be granted adequate time to familiarize himself with the case, and will not be granted a right of audience until this Chamber



Decisions/orders

8

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

9-10

Contact information

11

▲ Continued to page 2

Appeal Hearing in Case 002/01 will be resumed in Feb



Mr. Phat Poeuv Seang, Standby Co-Lawyer for Nuon Chea



Mr. Son Arun, Nuon Chea's National Co-Lawyer



Mr. Victor Koppe, Nuon Chea's International Co-Lawyer

Continued from page 1

has directed him to take over the Defence of Nuon Chea.

SCC informs Nuon Chea that, when the Appeal Hearing resumes, the Chamber will ask him whether he still stands by his decision not to make oral submissions nor to respond to the judges' questions, and whether he fully comprehends and accepts the consequences of his decision.

The Supreme Court Chamber had scheduled an Appeal Hearing in Case 002/01 for 17-19 November 2015, which was adjourned until further notice due to the lack of proper legal representation for Nuon Chea, resulting from his International Co-Lawyer's failure to attend the Appeal Hearing and his National Co-Lawyer leaving the courtroom in spite of this Chamber's order to remain present.

During the Appeal Hearing, Nuon Chea declared that his International Co-Lawyer Victor Koppe was not participating in the hearing and instructed his National Co-Lawyer Son Arun "not to participate in these proceedings any further, and not to respond to any kind of questions by the Judges or the other parties", while stopping short of withdrawing his appeal altogether".

In subsequent written submissions, Nuon Chea's National Co-Lawyer Son Arun committed to "sit in the courtroom in future Appeal Hearings in Case 002/01", while following his client's instruction "not to respond to any kind of questions by the Judges or the other parties", and Nuon Chea's International Co-Lawyer Victor Koppe maintained that his client "indicated at the hearing that he had instructed [him] not to be present during the hearing" and stated that, even though the ECCC "is indeed, and always will be, a complete farce", he will not withdraw as Nuon Chea's International Co-Lawyer.

SCC is considering that, despite Nuon Chea being clearly entitled to waive his right to make oral submissions at the Appeal Hearing, such a decision is going to significantly affect his ability to present an effective Defence, and therefore, the Chamber intends to satisfy itself that Nuon

Chea, after a period of reflection, fully comprehends and accepts the consequences of his decision. SCC is also considering that Nuon Chea remains entitled to revoke his decision at any time and thus participate actively in the Appeal Hearing- by making oral submissions and/or responding to the Judges' questions, in whole or in part- and that the Chamber accordingly will still allocate to Nuon Chea's Defence team in the timetable for the Appeal Hearing, but will progressively withdraw such allotted time as the Appeal Hearing proceeds through the scheduled thematic sessions with Nuon Chea not revoking his decision.

On 27 January 2016, the Supreme Court Chamber issued a Decision on the Conduct of the Co-Lawyers for Nuon Chea during the Appeal Hearing of 17 November 2015. SCC determined that the national Co-Lawyer engaged in misconduct pursuant to Internal Rule 38 by failing to return to the Appeal Hearing after the morning recess, willfully violating his duty to ensure the proper legal representation of Nuon Chea and the attendant Supreme Court Chamber's clear, direct and repeated order to remain in the courtroom, thus obstructing the proceedings.

SCC reprimands the National Co-Lawyer for his misconduct under Internal Rule 38, emphasizing that such misconduct resulted in the Appeal Hearing being delayed by three months and in considerable, yet entirely avoidable resources being drawn from the ECCC. SCC also notified the Co-Lawyer's for Nuon Chea that future instances of conduct resulting in a lack of proper legal representation of Nuon Chea or any other obstruction of the appeal proceedings shall lead the Chamber to consider imposing sanctions more punitive than a public reprimand.

Case 002/01 is the first of at least two trials against Khieu Samphân, former Head of State of Democratic Kampuchea and Nuon Chea, former Deputy Secretary of the Communist Party of Kampuchea. The charges in Case 002/01 is focused on alleged crimes against humanity committed during the forced evacuation of Phnom Penh in April 1975 and subsequent forced trans-

fer from other areas, as well as alleged execution of former Khmer Republic soldiers in Tuol Po Chrey in Pursat Province.

On 7 August 2014, the Trial Chamber found both accused guilty of crimes against humanity, and sentenced them to life in prison. Both Khieu Samphân and Nuon Chea have filed appeals against the Trial Chamber's judgement, advancing 223 and 148 grounds of appeal respectively. In addition, the Co-Prosecutors have filed an appeal limited to seeking declaratory relief from the Supreme Court Chamber regarding the applicability of the most extended form of joint criminal enterprise known as "JCE III" before the ECCC

Pending determination on issues on appeal, the accused remain presumed innocent. The Supreme Court Chamber expects the officials, members of the public and the media to respect the presumption of innocence in any statements that they may wish to make about the case and the accused.



The public attended the hearing in Case 002/02 against senior leaders of the Khmer Rouge Regime last year.

Victims Support Section of the ECCC secures funds from UN Trust Fund to End Violence against Women

The Victims Support Section (VSS) of the ECCC, in cooperation with the Transcultural Psychosocial Organization (TPO), will carry out a second-phase project entitled "Promoting Gender Equality and Improving Access of Justice for Female and Gender-based Violence (GBV) Survivors of the Khmer Rouge (KR) Regime."

This project has been granted by UNTF/UN Women to the VSS/ECCC with a USD 1 million fund and will be implemented for three years, commencing from January 2016 under the non-judicial measures (NJM) framework of the VSS/ECCC. The objective of the project is to ensure that female Civil Parties, in particular GBV survivors of the KR, have access to and are satisfied with the justice process and redress provided by the ECCC. The project shall contribute to the overarching goal of UN Women to prevent and end violence against women and young girls in today's society.

The first-phase project, implemented from 2011 to 2014, made a significant progress and positive impacts on female and GBV survivors of the Khmer Rouge Regime. The project successfully brought out the hidden issues of GBV to the public, made victims' voices heard, and reached around 800 Civil Parties through CPs' participation in various activities, such as forums, workshops, testimonial therapies, women's hearings, self-help groups and forum theatres. For more information, please go to: www.gbvr.org.

During the now commencing second-phase implementation, the VSS will carry-out a wide variety of activities, including gender sensitivity trainings, regional and national

women hearings, public forums, radio-call-in shows, vocational trainings, Civil Parties' participation in ECCC hearings, legal representation, and awareness raising of violence committed against women during the Khmer Rouge regime. TPO will carry-out psychological interventions with Civil Parties in various provinces in Cambodia.

Mrs. Keo Er, a victim from Svay Rieng province, who joined a self-help group, said that before joining this project she felt isolated and afraid of talking about the experiences. "No one encouraged and supported me to talk about the problem and the fear that I have. I thought that I was the only person who faced these problems. Yet, after I participated in a self-help group, I felt relieved, more confident, and happy to share my story within the group. I am not the only one, but also many people had the same problem; we shared it with each other, and we did the meditation and developed a way to address our situations. This project helped me a lot".

Mrs. Bou Dina, a victim from Kampong Speu province who joined forums and hearings said that as a Civil Party before the ECCC, she attended hearings at the ECCC through a good assistance from VSS and she felt much relieved after that. "I used to feel tensed whenever I thought of the Khmer Rouge Regime. I used to join meetings in Kampong province and Phnom Penh. I met and shared experiences with other victims who came from different provinces. In addition to this, I was informed by my lawyer about the development of forced marriage under the Khmer Rouge regime case".

Dr. Chhim Sotheara, Executive Director of TPO, underlines that many survivors of sexual violence under the KR have been living with their emotional scars and in isolation for a long time. Self-help

ECCC Budget for 2016-2017 Published

The budget for the Extraordinary Chambers in the Courts of Cambodia (ECCC) for the period 2016-2017 has been endorsed by the Group of Interested States, and is now available on the ECCC website.

The total budget amounts to US\$32.3 million for 2016 and US\$26.5 million for 2017 with the following breakdown:

2016

National Component US\$6.6million
International Component US\$25.7 million
Total US\$32.3 million

2017

National Component US\$6.4 million
International Component US\$20.1 million
Total US\$26.5 million

"We welcome the endorsement of the new budget, and strongly appeal to the donor community to provide necessary financial support for the implementation of this work plan", said Acting Director of the Office of Administration HE KRANH Tony and Deputy Director Knut Rosandhaug in a statement.

The budget document is available at: <http://www.eccc.gov.kh/en/about-eccc/finances/eccc-budget-2016-2017>

groups create a safe and supportive space for them to share their stories with other survivors for the first time after more than 30 years. This enables many survivors to build confidence and to be able to testify against former KR leaders at the ECCC. Many survivors realize that they are not the only ones who suffer from this problem in isolation; many other members in the self-help groups have made similar experiences. Through speaking and sharing their stories in the group, their confidence strengthens so that they can break their silence, which then leads to healing their psychological scars.

Mr. Long Khet, Executive Director of Youth for Peace, also puts weight on this project: I think that this project is very important in the fact that it provides a platform to address GBV in past conflict and violence. It helps build social resilience among GBV victim-survivors in order for them to fight against social stigmatization and discrimination in society for their betterments through publicly acknowledging their suffering, their strength and courage. It also seeks to empower GBV survivors by giving them a voice to break the silence and express their needs and demands. The awareness-raising of the impacts they face and their concerns in a safe and responsive manner will help them heal their wounds.

Supreme Court Chamber

On 19 November, the President of the Supreme Court Chamber issued a Memorandum addressed to the Defence Support Section (“DSS”), detailing the Supreme Court Chamber’s oral decision of 17 November to appoint standby counsel for Nuon Chea. On 24 November, the DSS informed the Supreme Court Chamber that it had identified a potential candidate, namely a National Lawyer who had already served as counsel for Kaing Guek Eav alias “Duch” in Case 001, and requested the Supreme Court Chamber to determine whether this appointment could result in a situation of conflict of interest, due to the National Lawyer’s previous submissions in Case 001, which could be seen as inimical to Nuon Chea’s interests. On 2 December, the President of the Supreme Court Chamber responded in a Memorandum to the DSS, in which he considered that appointing the proposed candidate could present a conflict of interest and be viewed as unsuitable for adequately protecting the interests of Nuon Chea. The President therefore advised the DSS to refrain from appointing the proposed Lawyer as standby counsel for Nuon Chea and to proceed as soon as possible with the identification and appointment of another lawyer in accordance with the terms of the Memorandum of 19 November.

On 16 December, the DSS notified the Supreme Court Chamber by Memorandum of the appointment of Phat Pouy Seang, the former National Co-Lawyer for the late accused Ieng Thirith, as Standby Counsel for Nuon Chea.

On 3 December, the Supreme Court Chamber dismissed the request by the Co-Prosecutors regarding the modalities of moving forward with the appeal proceedings. The Supreme Court Chamber considered that the request was rendered moot by the oral decision of 17 November and the Memorandum of 19 November and found that the Co-Prosecutors did not present any compelling reasons warranting reconsideration of the matter.

On 11 December, the Supreme Court Chamber denied a request by Meas Muth to intervene in the appeal proceedings of Case 002/01 or, in the alternative, file an amicus curiae brief on the applicability of the extended form of joint criminal enterprise in proceedings before the ECCC. The Supreme Court Chamber considered that there had been no change of circumstances that would warrant reconsideration of the decision not to allow a suspect in Case 003 to participate in the appeal proceedings of Case 002/01 as either an intervener or an amicus curiae in light of Nuon Chea’s indication that he does not wish to make further submissions in Case 002/01.

On 21 December, the Supreme Court



The ECCC Trial Chamber during a public hearing on Case 002/01 in 2015. (Photo Credit: ECCC)

Chamber issued a confidential decision, reclassifying as public a video recording belonging to the Case 001 file, featuring the Co-Investigating Judges undertaking an investigative action at the Choeng Ek Memorial site in 2008 in the presence of Kaing Guek Eav alias “Duch”.

On 23 December, the Supreme Court Chamber, noting the appointment of the Standby Co-Lawyer for Nuon Chea, scheduled the resumption of the appeal hearing for 16 through 18 February. Although Nuon Chea indicated during the hearing on 17 November that he intends not to make any oral submissions during appeal hearings in Case 002/01, the Chamber decided to maintain the time originally allocated to Nuon Chea’s Defence, since Nuon Chea remains entitled to revoke his decision at any time, in whole or in part.

On 31 December, the Supreme Court Chamber released the full reasons for its decision on the parties’ objections to the documents that they intended to use in the questioning of three witnesses who appeared before this Chamber. The decision addresses, inter alia, the complex legal question concerning the extent of the prohibition of introduc-

ing evidence into a criminal trial that was obtained through torture.

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

Trial Chamber

The Trial Chamber sat for 10 hearing days in December, during which it heard 8 witnesses and 2 Civil Parties before adjourning for the end of year recess.

On 7 December, the Trial Chamber issued an oral ruling granting the International Co-Prosecutor’s request to call a new witness on the treatment of the Vietnamese, 2-TCW-1000, and to admit three of 2-TCW-1000’s Written Records of Interview from Case 003 into evidence in Case 002.

On 11 December, the Trial Chamber referred the conduct of International Co-Counsel for NUON Chea, Mr Victor KOPPE, to the Amsterdam Bar Association. On 26 August, after

disagreeing with a ruling by the Chamber, Mr KOPPE and his National Co-Counsel withdrew from the courtroom, forcing the Chamber to adjourn the proceedings. The following day, the Trial Chamber asked Defence Counsel to provide a rationale and legal basis for their actions. In response, while conceding that there was no legal basis for his departure from the proceedings, Mr KOPPE made a number of statements which may constitute misconduct. On 1 September, the Trial Chamber extended an opportunity to Mr KOPPE to correct his behaviour and noted that if he failed to do so, the Chamber would have no choice but to take some action. As Mr KOPPE failed to avail himself of this opportunity, the Chamber referred the conduct to the Amsterdam Bar Association for its consideration.

On 14 December, the Chamber reclassified all prior disclosures of Cases 003 and 004 statements from strictly confidential to confidential in order to facilitate the Parties’ use of these documents. The Chamber recalled that since March 2015, these disclosures had been communicated through a shared computer drive allowing all Parties access to copies that are individually watermarked for each team.

However, following the International Co-Investigating Judge’s Memorandum informing the Chamber that watermarking of statements is no longer necessary, the Chamber decided to reclassify the statements.

On 18 December, the Chamber rejected the NUON Chea Defence request to call HUN Sen, SAU Seimech and KA Dev to testify on the treatment of the Cham. The Chamber also deferred its decision on the NUON Chea Defence request to call witnesses 2-TCW-831, 2-TCW-951 and 2-TCW-917 to the appropriate later stages of the proceedings. The Chamber noted that full written reasons for these decisions will be issued in due course.

Also on 18 December, the Trial Chamber acknowledged receipt of the Chief of the Defence Support Section’s (DSS) Memorandum of 24 November 2015 requesting withdrawal of the assignment of Mr Arthur VERCKEN as International Co-Lawyer for Mr. KHIEU Samphan. The Chamber noted that it is for DSS to make an initial determination on requests to change or withdraw Co-Lawyers and then to request confirmation by the relevant Chamber and directed DSS to follow established proce-

dures in this regard.

On 23 December, the Trial Chamber informed the Parties that it was seized of or expected three requests to call additional witnesses for the topic of treatment of the Vietnamese. The Chamber directed the Parties to provide any responses to these motions orally on 5 January 2015.

On 24 December, the Trial Chamber issued its decision on the International Co-Prosecutor’s Request to call additional witnesses for the topic of treatment of the Cham, granting its request to call three witnesses and to admit into evidence one Written Record of Interview.

On 30 December, following the deaths of three Civil Parties, the Trial Chamber issued three confidential Memoranda, finding that the respective civil actions of the Civil Parties could be continued by their successors.

Pre-Trial Chamber

During the month of December the Pre-Trial Chamber notified its decisions on cases: PTC04/20, PTC03/20 and PTC03/25. These decisions are all available in a public redacted version on the ECCC website.

Furthermore, on 3 December 2015, the Chamber completed its deliberations on two appeals against the International Co-Investigating Judge’s Decisions to Charge persons in absentia (PTC 03/21 and PTC 04/19). These two decisions are to be released soon.

The Chamber completed the preparations for deliberations on two other appeals and motions, including: an appeal against Co-Investigating Judge Harmon’s Notification of Charges (PTC 03/22), and a Request to Reclassify as Public Certain Submissions to the Pre-Trial Chamber (PTC 03/24) and advanced in its preparations for deliberations on three other cases: an appeal against the International Co-Investigating Judge’s Re-Issued Decision on MEAS Muth Motion to Strike the Supplementary Submission (PTC 03/26); an application for Annulment of Investigative Action Concerning Forced Marriage (PTC 04/21); and a “Request For The Pre-Trial Chamber To Take A Broad Interpretation Of The Permissible Scope Of Appeals Against The Closing Order and To Clarify The Procedure For Annulling The Closing Order Or Portions Thereof If Necessary”

(PTC 03/27).

The Chamber remained seized of three motions for annulment, filed in November

2015, two of which were forwarded by the International Co-Investigating Judge on 4 November (PTC 03/28); and the other one on 19 November (PTC 04/23). The Chamber was also seized, on 9 December 2015, of AO An's Appeal against the International Co-Investigating Judge's Decision on a request for investigative action (PTC 04/24); and on 23 December 2015 received MEAS Muth's Notice of Appeal against the International Co-Investigating Judge's Decision to Charge MEAS Muth with Grave Breaches of the Geneva Conventions and National Crimes and to Apply Command Responsibility (PTC 03/29).

At the end of December 2015, the Chamber remained seized of a total of eleven appeals and motions relating to the investigations in cases 003 and 004.

PTC04/20:

On 9 December 2015 the Chamber decided unanimously to dismiss as inadmissible an appeal filed by IM Chaem against the International Co-Investigating Judge's Decision on her Motion to Reconsider and Vacate her Summons.

PTC03/20:

On 23 December 2015 the Chamber issued its Decision on MEAS Muth's Appeal Against Co-Investigating Judge Harmon's Decision Refusing to Seize PTC with two Annulment Applications. The Pre-Trial Chamber found the prayer for annulment of Document D114/47 inadmissible and the remainder of the Appeal admissible; The Chamber denied the Second Application and declared that it had not secured the affirmative vote of at least four judges required for a ruling on the First Application. Although this decision is currently widely redacted when addressing the contents of the submission, it contributes to clarify in its public reasoning the annulment process before the pre-trial chamber.

PTC03/25:

On 9 December 2015 the Chamber dismissed as moot MEAS Muth's Appeal against the Co-Investigating Judge Harmon's Decision on MEAS Muth's Motion to Strike the International Co-Prosecutor's Supplementary Submission.

Office of the Co-Investigating Judges

During the month of December, the international side of the Office of the Co-Investigating Judges ("OICIJ") continued the investigations of Case Files 003 and 004. Six field missions took place in the course of which 14



witnesses were interviewed and six investigation action reports were drafted. Six witnesses were interviewed at the ECCC premises in Case File 003 and one in Case File 004.

During the month of December, the Analysts unit reviewed a few thousand KR contemporaneous documents held at external archive. Furthermore, the Analysts Unit assisted and participated in all field missions carried out during this period.

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

Initial appearances for Meas Muth and Yim Tith were held in Cases 003 and 004 respectively. The Co-Investigating Judges delivered a notice of conclusion of the judicial investigation against Im Chaem in Case File 004.

Office of the Co-Prosecutors

Trial hearings in Case 002/02 and ongoing investigations in Cases 003 and 004 kept all staff and interns of the Office of the Co-Prosecutors fully engaged.

Case 002/02

A number of witnesses were heard in relation to the section of the trial dealing with the alleged genocide of the Vietnamese. Additionally, the International Co-Prosecutor

requested the admission of documents and to summon additional witnesses for this segment of the trial. The prosecution continued to discharge its ongoing disclosure obligations by disclosing materials from Case 004 into Case 002.

Cases 003 and 004

Review and analysis of the evidence collected to date in the Case 003 and Case 004 investigations continued. In Case 004, the International Co-Prosecutor confidentially responded to an Ao An application. The International Co-Prosecutor also requested leave from the Co-Investigating Judges to disclose documents from Case 004 into Case 002 and confidentially responded to a request from the Co-Investigating Judge.

Outreach

Staff discussed the background and work of the Court with representatives of the Cambodian Center for Human Rights and subsequently with students from the Center for Peace and Conflict Studies in Siem Reap. Representatives from the OCP also spoke with students from two visiting Australian high schools, St Ignatius and Mercedes, about the goals and workings of the Court.

Defence Support Section

Case 002

NUON Chea

In December, the Defence team for NUON Chea was fully engaged in the Case 002/02 trial, participating in hearings of witnesses testifying as to the treatment of the Vietnamese. The Defence team filed a series of requests to the Trial

Chamber seeking to admit portions of the Human Rights Watch report, 30 Years of Hun Sen, ten written records of interview into evidence at trial, and issue summons to three additional witnesses.

KHIEU Samphân

In December, the Defence team for KHIEU Samphân continued to prepare and attend the hearings in Case 002/02. The Defence team also objected to the International Co-Prosecutor's requests to admit several documents into Case 002/02 and to hear several new witnesses from the ongoing investigations in Cases 003 and 004.

Case 003

MEAS Muth

In December, the Defence team for MEAS Muth drafted two appeals to the Pre-Trial Chamber. The Defence team also filed two requests to the Co-Investigating Judges; firstly, to reclassify as public a decision because the reasoning in the Decision would be of interest and of assistance to the Defence teams in the other cases. The Defence team also filed a second request to the Co-Investigating Judges, which is currently classified as confidential. On 14 December 2015, the Defence team attended an Initial Appearance with MEAS Muth.

In early January 2016, the Defence team for MEAS Muth filed two appeals and one reply to the Pre-Trial Chamber, each of which has been classified by the Chamber as confidential. The Defence team has also responded to a request by the International Co-Prosecutor for an extension of time to respond to one of the team's appeals. The team has also requested

that one of its motions to the Co-Investigating Judges, and the International Co-Investigating Judge's decision on this motion, be reclassified as public, since they contain no confidential information relevant to the ongoing judicial investigation. The Defence continues to review material on the Case File and to file submissions where necessary to protect MEAS Muth's fair trial and procedural rights.

Case 004

IM Chaem

In December, the Defence team for IM Chaem filed a number of requests to the Office of the Co-Investigating Judges regarding several matters in this case. Also in December, the Office of the Co-Investigating Judges notified all parties of their Notice of Conclusion of Judicial Investigation against IM Chaem. Further, the Defence team continues to review the evidence in the Case File and to prepare submissions to protect IM Chaem's fair trial and procedural rights.

AO An

In December, the Defence team for AO An filed three requests to the Office of the Co-Investigating Judges, most notably a Request to Place Certain Documents on the Case File. Also, the Defence team filed one appeal to the Pre-Trial Chamber, specifically an Appeal against the Decision Denying AO An's Fifth Request for Investigative Action. Finally, the Defence team continues to review all the evidence on the Case File in order to further prepare AO An's defence and safeguard his fair trial and procedural rights.

YIM Tith

On 9 December 2015, following the issuance of a Summons, YIM Tith voluntarily attended his Initial Appearance at the ECCC. He was assisted by his Defence team. During the hearing, International Co-Investigating Judge Bohlander charged YIM Tith with genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949 and violations of the 1956 Cambodian Penal Code. The Defence for YIM Tith has now been granted access to the Case File and is analyzing the contents thereof in order to participate in the investigation, prepare YIM Tith's defence and seek to protect his fair trial rights.

Civil Party Lead Co-Lawyers Section

Key Legal Developments

In the month of December, hearings continued with the treatment of the Vietnamese trial segment. Two Civil Parties, Prak Doeun and Choeng Yaing Chaet, gave evidence about their experiences in Kampong Chhnang province. The Lead Co-Lawyers further participated in the examinations of eight witnesses, putting questions to the witnesses about the experience of Vietnamese people in their areas during the Democratic Kampuchea regime.

Outreach and Activities

On 17 December 2015, the National Lead Co-Lawyer was invited to be a guest speaker on FM 102 radio to update the audience on case 002/02 proceedings, particularly in regard to the treatment of targeted groups.

On 21 December 2015, the Lead Co-Lawyers, together with the Victims Support Section, hosted a civil party forum in Phnom Penh where they updated 92 Civil Parties as to the implementation of case 002/01 reparations projects and consulted them about reparations projects in development for case 002/02.

The Lead Co-Lawyers continued to liaise with NGO project partners with respect to project development and fundraising.

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. Furthermore, they also participated in the meeting between Lead Co-Lawyers Section and Civil Party Lawyer on reparation request in Case 002/02

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.

Reparations and non-judicial measures

The Reparation & Non-Judicial Measure Team has coordinated the implementation of all Reparation & Non Judicial Measure projects through meetings and technical support communication. During the month, the reparation team members participated in the following:

- Meeting with Ms. Anna, Youth Resource Development Program Advisor, at Victims Support Section office to discuss about the organization's reparation project concept notes, proposals and fundraising campaign.

- Meeting with Mr. Christoph from Civil Party Legal Team and Mr. Long Khet, Director of Youth for Peace, respectively to discuss about the reparation project concept notes, proposals and fundraising campaign.

- National Consultation Workshop on the Development of Guide Book of Study Tour in Mass Killing Site Link to the Education of Khmer Rouge History which took place at Youth for Peace with around 16 participants from local and international NGOs and Ministry of Education Youth & Sport

- Few meetings with Lead Co-Lawyer Section to discuss about case 002/02 reparation requests so as to develop brochure and strategy for fundraising campaign



Outreach

During the month, Outreach Team invited 48 civil parties from Bantay Meanchey, Kampong Speu, Kampong Chhnang, Prey Veng, Pursat, Takeo and Rattanakiri 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 courtroom. 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. The chief met with a scholar from the Harvard's Kennedy School of Government to discuss transitional justice, in particular, on the Civil Parties' effective participation in the ECCC proceedings and reparation and how they have made impacts on Cambodian society. He also met with representatives of GIZ to brief them on the work of VSS. Two VSS staff members participated in the workshop on proposal writing organized by

Civil Peace Service (CPS)/ German Agency for International Cooperation (GIZ) at CHRAC office.

On 21 December, 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 at Phnom Penh on Judicial Reparation in Case 002/02 with 105 civil parties, including focal persons, from Phnom Penh, Prey Veng, Kampong Chhnang, Kampong Cham and Kampong Speu. National Lawyers and International Lead Co-Lawyers conducted presentation on 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.

Decisions/Orders

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

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

Supreme Court Chamber

3 December 2015: Decision on Co-Prosecutors' Submissions on Proceeding with Appeal Hearings, F30/16/1.

11 December 2015: Decision on Renewed Requests to Intervene or Submit Amicus Curiae Brief in Case 002/01 Appeal Proceedings, F31/1.

21 December 2015: Decision on Reclassification of Video Recording E3/247R and on Variation of Related Protective Measures, 001-F31/15.

23 December 2015: Order Scheduling the Resumption of the Appeal Hearing, F30/17

31 December 2015: Decision on Objections to Document Lists – Full Reasons, F26/12,

Trial Chamber

14 December 2015: Trial Chamber memorandum entitled: Decision on NUON Chea Request to Expedite Two Previously Proposed Witnesses and Summons Four Additional Witnesses During the Case 002/02 Trial Topic on the Treatment of the Cham – with Written Reasons to Follow <E319/35/3>

24 December 2015: Decision on International Co-Prosecutor's Request to Call Additional Witnesses During the Case 002/02 Trial Segment on Treatment of the Cham <E366/3>

Pre-Trial Chamber

9 December 2015: Decision on appeal against the International Co-Investigating Judge's Decision on her Motion to Reconsider and Vacate her Summons, D236/1/1/8

9 December 2015: Decision on appeal against the Co-Investigating Judge Harmon's Decision on Motion to Strike the International Co-Prosecutor's Supplementary Submission, D120/2/1/4.

23 December 2015: Decision on appeal Against Co-Investigating Judge Harmon's Decision Refusing to Seize the Pre-Trial Chamber with two Annulment Applications, D134/1/10.

Witness testimonies in Case 002/02 resume



2-TCW-918, testified on 30 November 2015 and 1-2 December 2015

The witness testified that under the DK regime, he was a developer in the construction of the Trapeang Thom Dam work site. He admitted welcoming both the King and Khieu Samphan at the site – although he allegedly did not recognize the latter. He was then transferred from to a Sector 5 fishing village, and ordered to work as a fisherman. He clarified that, while workers were allowed to move freely within their work areas, travelling beyond those areas was only possible after obtaining a letter of authorization. He witnessed the disappearance of his supervisor and saw a handwritten list with the names of all sector cadres to be arrested. The three people on the list he knew all disappeared eventually. Although his name did not appear on the list, the witness also recalled having been arrested himself and being pushed off a moving vehicle, after which he fell unconscious and eventually woke up in a nearby hospital.



Mr. Prak Doeun, testified on 2-3 December

Civil Party Mr. Prak Doeun recalled that the Khmer Rouge separated him from his wife of Vietnamese origin and his five children, all 12 years or younger, and sent him to work in a fishing unit, but permitted him to reconnect with them a year later. He testified that the cadres gathered all Vietnamese on the island, including himself, his own wife, mother-in-law and his youngest child. They were separated into two work teams in accordance with their Khmer and Vietnamese origin. Mr. Prak recalls that he was then separated from his family, and overheard the cadres mentioning later on that "those people were smashed" and the young children were "thrown into the air and pierced

with a bayonet". The subsequent day, a Khmer Rouge soldier informed him about the death of his family members. His other children were either sent to cooperatives or training sessions, some of them died due to starvation or poor medical supplies



Ms. Sao Sak, testified on 3 and 7 December

Ms. Sao Sak is a dry season rice farmer and comes from Anlong Trea Village in Prey Veng Province. She testified in front of the chamber that when the Khmer Rouge took over her area in 1975, they soon sorted out the ethnic Vietnamese living there from their Khmer counterparts, with whom they had been living and marrying peacefully. Ms. Sao Sak recalled that anyone with Vietnamese origin was taken away to be killed, and that her mother met the same fate in either 1978 or 1979. One time having been detained for ten days herself with her three children, Ms. Sao Sak stressed that she might have avoided a similar fate for her family by telling Khmer Rouge soldiers that her father was a Khmer villager whilst being under interrogation. All children of Vietnamese fathers were taken away and never returned, she explained. Ms. Sao Sak testified that after the arrival of the new cadres in her area, evacuations and disappearances of village members happened on a regular basis, some at day time and others at night time. She further explained that throughout this period, she had no knowledge regarding who those new cadres really were, what they stood for, neither did she know about the DK regime or Communist Party policies.



Mr. Choeng Yaing Chet, testified on 7 December

An ethnic Vietnamese, Civil Party Mr. Choeng Yaing used to live in the Kampong Leang dis-

trict and nowadays lives and works in the Kampong Chhnang Province. Mr. Choeng testified that after having been mistreated and threatened by the Khmer Rouge in his birth village Srae Ta Kouch, he and his family were forcefully resettled to Da village in Kampong Chhnang province, where Vietnamese and Khmer families were soon separated. He further explained how one day, eight men armed with axes and grenades entered the house without warning to come for his family. They tied them up with ropes usually used for cows, and walked them away one after another. When he was brought to the pit himself, he saw the dead bodies of his father, his mother and his siblings on the ground. Mr. Choeng further testified that he was attempted to be executed as well. He was forced to kneel by the pit, but lost his balance and was hit by an axe three times in the neck before being dropped into the pit. He regained consciousness later that day and walked day and night to the floating Vietnamese Kruh Village, where he was given medicine. He was then, together with other Vietnamese, sent onto a ferry to Vietnam, where they were exchanged for salt and rice. Mr. Choeng returned to Cambodia in 1982, because he had no land to farm or catch fish in Vietnam. He still suffers memory loss as a result of being beaten on the head and neck.



Mr. Prum Sarun, testified on 8 and 9 December

Mr. Prum told the Trial Chamber that he lived in Battambang and worked as a chief of a platoon in April 1975. Although there were no Vietnamese in his battalion, Mr. Prum witnessed the arrest of four Vietnamese in another, and discovered four corpses at the alleged killing site Tuol Ta Trang later on. He also testified during his hearings that he witnessed a soldier and his wife being shot to death, who had been amongst a group of people, presumably former Lon Nol soldiers, being walked away by cadres. Mr. Prum informed the chamber that he was a soldier in the previous Lon Nol regime himself, but did not reveal this information when being questioned by the cadres, knowing that all high ranking soldiers and officials of the former regime were taken away and then 'smashed'. Mr. Prum also described how he witnessed the arrest of Vietnamese

people being conducted by cadres who were the children of Khmer Rouge soldiers, about eight or nine years of age.



Mr. Um Suonn, testified on 9 and 11 December

Mr. Um informed the Trial Chamber that after April 1975, he was placed in a mobile unit in a village and worked on a rice field. According to his testimony, there were many Vietnamese families living in the area, as it was home to a Vietnamese temple. Although he never witnessed a forced evacuation of Vietnamese families in person, Mr. Um stressed that numerous Vietnamese families seemed to disappear between 1975 and 1976. Further, he described the Kshach pagoda, allegedly the killing site for the Vietnamese families of the area, which was surrounded by a wooden fence with lots of holes through which one could observe the inner hall of the pagoda. Mr. Um testified in front of the chamber that he witnessed the killings of a lot of people from outside the pagoda. He remembered armed people accusing the victims as 'Yvon' inside the hall, and then witnessed the them being killed one after another under heavy screaming and crying. After escaping the killing site in fear, Mr. Um described his return to the killing site the next day, where he saw pits overflowing with corpses and gall bladders hanging on coconut trees. He mentioned that babies and small children were hung upside down and where then smashed into the trees, whereas older children were seemingly killed using bamboo clubs.



Ms. Ung Sam Ean, testified on 11 December

Ms. Ung from Kraham Ka village in Svay Rieng Province testified in front of the Trial Cham-

ber that she personally witnessed a number of mixed-race children stemming from two to three different families being walked away by two alleged cadres. She stated that members of mixed-race families, for example with Cambodian fathers and Vietnamese mothers, who were arrested, were sent to mobile units to work in the fields, but she was unaware of whether they were actually being sent to work or if they being executed instead. Ms. Ung further revealed to the Chamber that her brother, a member of the Kampuchea Revolutionary Army at the age of 17, was arrested at the age of 23 and allegedly executed in Tuol Slang Prison.



Ms. Sin Chhem, testified on 14 December 2015

Ms. Sim Chhem originates from Svay Yea village in Svay Chrum district in the Svay Rieng province, and still lives there nowadays, having worked as a rice farmer all her life. She expressed in front of the chamber that her younger brother Sin Chhouk joined the Khmer Rouge and worked as a medic in the Sector 24 hospital. Ms. Sim Chhem further testified that her husband as well as her brothers were taken away without warning during the Khmer Rouge period and allegedly lost their lives. During her hearing, Ms. Sim Chhem also expressed in front of the Trial Chamber that all Vietnamese families as well as children stemming from mixed-race marriages in her surrounding areas were taken away at night to be killed, which affected four families in her commune.



Mr Y Yun, testified on 15 December 2015

Mr. Y is a rice farmer born in Sop Ni Koi district. He testified that he was evacuated to Yeang

village and was assigned to work as a traditional healer during the Democratic Kampuchea regime. Besides, he also worked as a rice farmer between 1975 and 1979 in close range to the Khsach pagoda. Mr. Y stated in front of the chamber that in 1978, executions of ethnic Vietnamese occurred inside the pagoda halls, around one month before the arrival of the Vietnamese troops. He remembered around 10 to 20 people inside the pagoda, and listened to heavy screaming and cries from inside during the alleged night of the killings for several hours. Mr. Y emphasized that he did not actually see the killings with his own eyes, however, he returned to the site three days later and found clothes scattered around the area as well as blood-stained clubs on the ground. On top of that, he discovered deep pits with bones sticking out.



2-TCW-1000, testified on 16 December 2015

During his questioning, the witness confirmed in front of the Trial Chamber that he joined the Khmer Rouge military and that he was, throughout the Democratic Kampuchea regime, a member of Division 164, which, in the years between 1976 and 1979, was under the command of Meas Muth. The witness explained that he was assigned to join the naval forces and fight on boats, stressing that his commanders never talked about what the Khmer Rouge's policies or goals were in detail and that he thus was not aware of them. Furthermore, the witness described that upper levels provided specific orders regarding when to arrest people on the sea and take them ashore for interrogation, and when to sink the respective boats and kill their passengers. However, he stressed in front of the court that he never had to execute anyone himself. Furthermore, the witness remembered many Thai and especially Vietnamese people getting arrested at sea, taken to the port to be questioned, beaten and killed. In one specific instance, the witness reported about a Vietnamese married couple with a one-year old child, who were all tied up under a coconut tree and then beaten to death with clubs. He stressed that each battalion was instructed to kill every Vietnamese, even if were babies, as they were regarded as the "hereditary enemy".



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