



# The Court Report

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

### Trial Chamber finds Accused Nuon Chea and Khieu Samphan fit to stand trial

The Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia assigned two medical experts to examine the accused Nuon Chea and Khieu Samphan in order to determine whether they remain fit to stand trial in Case 002/02.

The experts examined Nuon Chea and Khieu Samphan on 29 January 2018. Following review of the expert medical reports, the Trial Chamber issued decisions affirming that both accused remain fit to stand trial and do not suffer from any mental or physical impairment which would prohibit their continued participation in Case 002/02.

The trial Chamber took note of the experts' recommendation to have regular cognitive test on quarterly basis of the accused.



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### Judicial updates

- The Supreme Court Chamber conducted research on elements of crimes against humanity, genocide and different forms of sexual violence.
- The Trial Chamber in January and February 2018 issued five written decisions or memoranda, three of which are public. It was also engaged in the evaluation of evidence and preparation of material for the purposes of drafting the Judgement in case 002/02.
- The Pre-Trial Chamber notified one judgement in February 2018 on an appeal regarding the investigation of allegations of sexual violence in case 004.

### Outreach Activities

Public Affairs outreached to nearly 5700 Cambodian and 200 international visitors in this two months period. The section also launched the ECCC new website in 3 languages - Khmer, English and French.



### Extraordinary Chambers in the Courts of Cambodia

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# Judicial updates:

## Supreme Court Chamber

The Supreme Court Chamber conducted research on elements of crimes against humanity, genocide and different forms of sexual violence as presented in international jurisprudence across international tribunals and courts, distinguishing factual findings that go to prove intent and those on which actus reus is founded. Research on psychological effects on the witnesses called by prosecution, whether credibility of a witness can be undermined by Post Traumatic stress syndrome. Further research was also done concerning bias on the part of witnesses who lost their loved ones in events underlying the charges in case 002/02. The Supreme Court Chamber expects immediate appeals on issues that may arise during Trial Chamber deliberations as provided for in the internal rules.

## Trial Chamber

The Trial Chamber in January and February 2018 issued five written decisions or memoranda, three of which are public. During this period, the Trial Chamber was engaged in the evaluation of evidence and preparation of material for the purposes of drafting the Judgement in case 002/02.

On 10 January 2018 the Trial Chamber issued a memorandum seeking clarification of the position of the International Co-Investigating Judge (ICIJ) on the reclassification, as public, of documents specified in Annex 1 of the ICIJ's Memorandum E319/35/14/3, which authorised public reference in Case 002/02 to the names, dates and portions of certain evidence relating to all Case 003 and 004 witnesses and materials as identified by the International Co-Prosecutors.

On 27 February 2018 the Trial Chamber issued its sixth decision on the fitness of NUON Chea to stand trial. The Chamber reviewed the expert medical report prepared by two experts who had been assigned to examine the accused and concluded that it was satisfied that NUON Chea remained fit to stand trial and did not suffer from any mental or physical impairment which would prohibit his participation in proceedings Case 002/02. The Chamber noted the recommendation

of the Experts to have regular reviews of NUON Chea's cognitive function, and ordered the continuation of his quarterly cognitive testing through June 2018.

On 27 February 2018 the Trial Chamber issued its fourth decision on the fitness of KHIEU Samphan to stand trial. The Chamber reviewed the expert medical report prepared by two experts who had been assigned to examine the accused and concluded that it was satisfied that KHIEU Samphan remained fit to stand trial and did not suffer from any mental or physical impairment which would prohibit his participation in proceedings Case 002/02. The Chamber noted the recommendation of the Experts to have regular reviews of KHIEU Samphan's cognitive function, and ordered the continuation of his quarterly cognitive testing through June 2018.

## Pre-Trial Chamber

The Pre-Trial Chamber notified one judgement in February 2018 on an appeal regarding the investigation of allegations of sexual violence in case 004. This judgement is available on the ECCC website.

After having received all written submissions and heard the oral arguments of the parties in case 004/1, the Pre-Trial Chamber further advanced preparations for deliberations on appeals concerning the substance and the confidentiality of the Closing Order. It also advanced preparations on two applications for annulment of torture-tainted evidence and of documents relating to civil parties in cases 003 and 004, and was seized of a new application for annulment of evidence obtained under torture in case 004.

The Pre-Trial Chamber remains currently seized with five cases. The next deliberations are expected to take place in March.

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

During the months of January and February, the Office has been processing investigative material, and addressing procedural motions in all cases.

The CIJs are currently the drafting Closing Order in Case 004/2.

The CIJs are considering the final submissions submitted by the Co-Prosecutors in Case 003.

## Defence

### Case 002

#### NUON Chea

During the months of January and February, the NUON Chea Defence Team carried out ongoing research and analysis work on Case 002/02 while awaiting receipt of the trial judgement.

#### Kieu Samphan

During the reporting period, the KHIEU Samphan Defence team was engaged in the preparation of the future appeal in Case 002/02.

### Case 003

#### MEAS Muth

The MEAS Muth Defence is preparing its response to the Co-Prosecutors' final submissions in Case 003, reviewing material on the Case File, and drafting submissions to protect MEAS Muth's fair trial rights and interests.

### Case 004

#### IM Chaem

In January and February, the Defence reviewed the contents of the case file in Case 004/1 with a view to protecting Ms. IM Chaem's procedural rights. To this end, the Defence has reviewed evidence on the case file in preparing for a potential indictment being issued by the Pre-Trial Chamber. Further, the Defence has reviewed all filings in Case 004/1 in consideration of what documents may be appropriately reclassified as public.

Throughout January and February, the Defence has also worked on the preparation of a confidential request on a procedural matter, which it intends to file with the Pre-Trial Chamber in the near future.

The Defence continues endeavouring to safeguard the client's fair trial rights in the remaining proceedings of the pre-trial stage of Case 004/1.

### AO An



During the months of January and February AO An's Defence team continued to review the Case File, conduct research and analysis and undertake all necessary measures to safeguard Mr AO An's fair trial rights while awaiting the Closing Order.

#### YIM Tith

During the months of January and February, the YIM Tith Defence Team continued to analyse the contents of Case File 004 in order to prepare YIM Tith's defence and endeavor to protect his fair trial rights.

### Office of the Co-Prosecutors

During the reporting period, staff and interns of the Office of the Co-Prosecutors were engaged with ongoing pre-trial litigation and review of evidence in preparation for the Final Submission in case 004

#### Case 004

Case 004 Review and analysis of the evidence collected in the investigation against the Charged Person was ongoing. Additionally, the International Co-Prosecutor confidentially filed one response to the Pre-Trial Chamber.

#### Outreach

Representatives of the office participated in meetings at the Court premises with students visiting from the International School in Phnom Penh, Trinity Law School, Ohio University, Notre Dame University, George Mason University (United States) and Korea University (South Korea), explaining the substantive law and structure of the court as well outlining the cases and the work of the office.

### Victime Support Section

#### Legal Representation

ECCC-funded Civil Party Lawyers had the meeting with researcher to discuss the participation of civil parties at the ECCC and participated in two Civil Party Regional Forums in Phnom Penh and Kampong Cham. One of the lawyers also was invited to be a guest speaker to talk about "women in Khmer Rouge Regime".

#### Processing and Analysis

The team continued to edit applications and supplementary information in cases 004 & 003 and filed Power of Attorney letters to the Chambers for civil parties. The team also assisted civil party lawyers

and their interns/ legal assistants in having ID passes made.

#### Outreach

During the two moth-period, under the financial support of German Federal Ministry for Economic Cooperation and Development (BMZ), Civil Peace Service (CPS)/German Agency for International Cooperation (GIZ), and United Nations Trust Fund to End Violence Against Women, Victims Support Sections organized three forums on the developments of ECCC's proceedings and reparations in Case 002/02 in Phnom Penh, Kampong Cham and Kratie with the participation of total of 384 civil parties, civil party lawyers, civil party lead co-lawyers and NGOs partner implementing reparation projects. The forum was received remarks from a representative of CP and NGOs partners implementing reparation project.

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.

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

Gender-Based Violence Project of the section has coordinated and implemented its project through the following activities with its partners.

- The team organized the first clients-

lawyer meeting for year 3. The meeting was held at Kampong Chhnang province with 43 civil parties. During the meeting, Civil Party lawyer provided legal briefing to participants on the general update information on the new developments of the ECCC's proceedings and updated about proposed reparation projects for civil parties in Case 002/02. The psychological support session provided by TPO Psychologists is particularly important to ensure that Civil Parties feel supported during the meeting.

- A radio live show was conducted in cooperation with the Women Media Center on the topic "Clients-Lawyer Meeting at Communities". A civil party lawyer Ms. Chet Vannly, was a guest speaker during the live show. There were a total of 7 callers, which includes 4 off-air and 3 on-air callers.

- The team member participated in the in the Conference on Effects of Culture and Art in Dealing with Khmer Rouge Trauma held at Phnom Penh. The conference aimed to present the public the main findings of one research study. The study showed the effectiveness of art which was the performance about the forced marriage survivors and sexual violence.

- The team members met with some survivors who got benefit from Self Help Group (SHG), Community Resource Person (CRP) and income generation to find out what has been changed to survivors and to their communities and find out what else they want to change or help.



Victim Support Section project on gender-based violence during the Khmer Rouge Photo: ECCC

- The team members had a meeting with the Executive Director of University of Specialties Cambodia (CUS), Stuong Mean Chey to discuss the International Women's Rights Day event which will be held on 06 March, 2018.

- The radio live show was conducted in cooperation with the Women Media Center on the topic "Current mental health and my waiting". A civil party from Pursat province, Pov Sinoun, was a guest speaker during the live show. There are a total of 11 callers which includes 9 off-air and 2 on-air callers.

## Civil Parties Co-Lawyers

### Outreach and Activities

The Lead Co-Lawyers, in collaboration with the Victims Support Section and their NGO partners, continued to facilitate the implementation of judicial reparation projects in case 002/01 and proposed judicial reparation projects for case 002/02.

During this period, the Lead Co-Lawyers attended the Civil Party Forum in Phnom Penh on 26 January 2018 in which 101 civil parties attended, the Civil Party Forum in

Kampong Cham on 13 February in which 162 civil parties participated, and the National Lead Co-Lawyer attended the Civil Party Forum in Kratie on 27 February with 105 participants. At each forum, the civil parties were informed about the progress of trial proceedings and the implementation of proposed reparation projects in case 002/02, as well as updates relating to the implementation of case 002/01 reparation projects.

# Orders and Decisions

## January

### Trial Chamber

**10 January 2018:** Memorandum Seeking Clarification on the International Co-Investigating Judge's Memorandum E319/35/14/3 .

## February

### Pre-trial Chamber

**13 February 2018 :**The Pre-Trial Chamber unanimously dismissed the International Co-Prosecutor's appeal against the International Co-Investigating Judge's decision denying his request to investigate allegations of sexual violence at Prison No. 8 and

in Bakan District, for which the suspect had not been formally charged.

### Trial Chamber

**27 Feb 2018:** Sixth Decision on Fitness of the Accused NUON Chea to Stand Trial.

**27 Feb 2018:** Fourth Decision on Fitness of the Accused KHIEU Samphan to Stand Trial.

# Outreach activities

The Public Affairs Section continued to respond to public and media requests for information on the ongoing judicial proceedings. The spokespersons proactively interacted with local media including the weekly radio show Khmer Rouge on Trial on FM102.

During the reporting period, the Section, with ICT's technical support, launched the ECCC new website in three languages - Khmer English and French. The section also published the ECCC at a Glance four pages factsheet in English language.

The Section's outreach team continued to organize study tours on non-hearing days to the Cambodian public. During January and February, it facilitated 19 study tours to the court premises, the former S-21 facility and to the Killing Fields Museum. Nearly 5700 Cambodians benefited from the initiative. Members of the Public Affairs Section briefed some 200 international visitors in 6 groups and briefed Civil Parties about latest judicial proceedings in Kampong Cham. In addition, the Section facilitated the visit of the incoming Ambassador of India to the ECCC.

The Section facilitated a photoshoot for a British photographer in the premises of the ECCC for a legacy related project.



*the Ambassador of India, Ms. Monika Jain visiting the Court*

*Photo: ECCC*

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



*Outreach Study Tour from Kampong Speu Province  
16th of January 2018*

*Photo: ECCC*

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