



The Court Report

APRIL 2013

The Extraordinary Chambers in the Courts of Cambodia

Moving Forward Through Justice



Ieng Sary Dies; Proceedings Terminated

The Extraordinary Chambers in the Courts of Cambodia terminated on 14 March the proceedings against Ieng Sary, former Khmer Rouge deputy prime minister for foreign affairs, following his death in custody.

Ieng Sary died in the morning of 14 March at the Khmer-Soviet Friendship Hospital from an “irreversible cardiogenic shock” after having been admitted on 4 March. He was 87.

The accused, born on 24 October 1925, was a permanent member of the Communist Party of Kampuchea’s Standing Committee during the regime in addition to serving as the deputy prime minister. He was arrested on 12 November 2007, and indicted in 2010 on charges of genocide against the Cham Muslim and the ethnic Vietnamese, crimes against humanity and grave breaches of the Geneva Conventions of 1949. He was brought to trial in 2011, along with three other co-defendants.

Since his arrest, Ieng Sary had been hospitalised on a number of occasions for heart condi-

tions and other ailments, including a two-month hospitalisation late last year due to difficulty in breathing and general weakness. At that time, the Trial Chamber found that he was capable of participating in his own defence and fit to stand trial, following health assessments by a court-appointed geriatrician. Ieng Sary’s passing came a few days before a scheduled new round of fitness assessments by two court-appointed medical experts.

Upon his death, the Trial Chamber terminated all criminal and civil actions against Ieng Sary in accordance with the Cambodian Criminal Procedure Code and the ECCC Internal Rules. Consequently, the Supreme Court Chamber also dismissed all the appeals lodged by his defence team. As Ieng Sary died before a verdict could be reached, no determination will be made on his guilt or innocence regarding the charges against him.

Civil Parties, victims who participate in the proceedings seeking reparations, voiced their

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disappointment at a 15 March regional forum in Battambang hosted by the ECCC's Victims Support Section and Civil Party Lead Co-Lawyers Section.

"We, the 150 Civil Parties in Case 002, are in deep regret and disappointment because he passed away without answering a historical mystery before no verdict on his charges was issued by the ECCC," reads a statement issued by the attending civil parties. "Ieng Sary's death has also brought to us more concerns about the ECCC's inability to provide justice for the victims."

However, Deputy Co-Prosecutor William Smith said during a press conference on the day of Ieng Sary's death that the efforts to hold the accused accountable have already made an impact. "That five suspects were made to stand trial—whether a verdict was reached or not—is already a sort of victory," he said. "The biggest problem is that it [the Court] started 30 years after the crimes were committed, but it's important for Cambodia that that process was started."

Mr Surya Subedi, UN Special Rapporteur on human rights in Cambodia, echoed a similar view. "His death during the trial means he will not be finally judged ... but he was forced to answer the grave allegations against him in an open court," he said in a statement. "Although a final judgment was not reached, the mere fact of seeing Ieng Sary forced to face his accusers will have brought some degree of comfort to the surviving victims of the Khmer Rouge, the families of the victims and the whole of Cambodian society."

Although the case against Ieng Sary is now over, the trial of two other co-defendants – Nuon Chea and Khieu Samphan – will continue.

"It is urgent that every stakeholder of the ECCC fulfills its responsibility so that the trial of the remaining co-accused proceeds in a fair, efficient and expeditious manner and that overdue justice be realized in Cambodia," reads a joint statement issued by the French and Japanese embassies who co-chair the Friends of the Court donor group.

Case 002 originally involved four accused including former Social Action Minister Ieng Thirith. However, she was found unfit to stand trial due to her dementia and eventually released from detention and placed under judicial supervision. The proceedings against her have been stayed since late 2011.



Ieng Sary applauds during inspection of a railroad in Takeo Province (1977). Photo provided by the Documentation Center of Cambodia.

Timeline: Ieng Sary in Case 002

18 July 2007	The Co-Prosecutors file their first Introductory Submission requesting the Co-Investigating Judges to investigate crimes allegedly committed by Nuon Chea, Ieng Sary, Ieng Thirith, Khieu Samphan and Kaing Guek Eav alias Duch during the Democratic Kampuchea regime. Duch is later severed and tried separately.
15 Sept. 2010	The Co-Investigating Judges issue a Closing Order , indicting the four accused in Case 002 for crimes against humanity, genocide, grave breaches of the Geneva Conventions of 1949, and offences under the 1956 Penal Code of Cambodia (homicide, torture and religious persecution).
13 Jan. 2011	The Pre-Trial Chamber confirms the indictments of the four accused with minor amendments, in response to appeals against the closing order filed by the defence teams. Case 002 is now sent to the Trial Chamber.
27-30 June 2011	The Trial Chamber holds an Initial Hearing in Case 002 to consider preliminary objections and witnesses, effectively opening the long-awaited trial.
22 Sept. 2011	The Trial Chamber issues a Severance Order to split the Case 002 trial into a series of separate trials, starting with a trial on two forced movements of population and related crimes against humanity. The chamber also rules out charges under the 1956 Penal Code of Cambodia from the Case 002 indictment.
3 Nov. 2011	The Trial Chamber rules that the 1996 royal pardon and amnesty do not prevent the prosecution of Ieng Sary for serious international crimes.
21-24 Nov. 2011	The Trial Chamber hears Opening Statements by the Co-Prosecutors and responses by the Accused or their lawyers. Following the conclusion of the opening statements, the Hearing of Evidence begins on 5 December 2011.
26 Nov. 2012	Ieng Sary is found fit to stand trial by the Trial Chamber, following a two-month stay in a hospital in Phnom Penh.
14 Mar. 2013	Ieng Sary dies at a Phnom Penh hospital after having been admitted since 4 March 2013. The Trial Chamber terminates the proceedings against him. Consequently, the Supreme Court Chamber dismisses all the appeals from the Ieng Sary's team.

Termination of Proceedings

The 772-page Closing Order in Case 002, which contains an indictment, describes details of factual allegations on criminal acts, applicable law and legal findings on crimes allegedly committed by the four accused. Along with other accused, Ieng Sary was alleged to be responsible, through his acts or omissions (committed via a joint criminal enterprise), for having planned, instigated, ordered, aided and abetted, or been responsible by virtue of superior responsibility, for the following crimes committed between 17 April 1975 and 6 January 1979.

- **Crimes against humanity:** murder, extermination, enslavement, torture, persecution, on political, racial and religious grounds and other inhumane acts;
- **Grave breaches of the Geneva Conventions of 1949:** willful killings, torture, inhumane treatment, unlawful deportation or unlawful confinement of a civilian; and
- **Genocide:** killings of the Cham and Vietnamese.

Since the trial began in late 2011, the Trial Chamber had heard the testimony of more than 50 individuals of witnesses, Civil Parties and experts to ascertain the truth on those allegations before Ieng Sary died. As his death came before a verdict was reached, no determination was made on his guilt or innocence with regard to the charges above.

Donations Redirected to Fund National Staff Salaries as a Temporary Solution

With an imminent court-wide strike by the national staff demanding the full payment of pending salaries, the United Nations and donors on 29 March provided a temporary solution for the cash-strapped national side of the Extraordinary Chambers in the Court of Cambodia with an offer to redirect funds to pay the outstanding salaries.

“The UNAKRT (United Nations Assistance to the Khmer Rouge Trials) Coordinator has informed the international judges of the chamber this morning that the funds will be made available for Cambodian national staff throughout the end of April,” announced Judge Silvia Cartwright at the end of a hearing to render two decisions on defendant Nuon Chea’s fitness to stand trial and severance in Case 002, adding that the chamber will resume the hearing of evidence on 8 April.

Later on the same day, the court’s Office of Administration informed both the national and international staff members that the UN has agreed to extend funds to pay the court’s national staff salaries for the period of January to April. This offer temporarily solved the issue of outstanding salaries and averted the threatened strike.

Earlier in March, a few dozen national staff members of the Interpretation and Translation Unit publicly announced a strike in the beginning of a hearing and walked out of the court,

interrupting the trial proceedings. As all the national staff except those with the Victims Support Section had not been paid since November last year due to a funding shortfall, the ITU staff went ahead with a work stoppage to demand the full payment of back salaries.

According to the 2003 Agreement between the Cambodian government and the United Nations, the national salaries are to be paid by the government while the UN takes care of the international staff. However, the Cambodian government has thus far paid only the operational costs and relied entirely upon donor nations to cover the salary payments. As no donors have pledged to fund the national component for this year, except Germany earmarking funds for the Victims Support Section, the national staff have gone without salaries or renewed contracts.

Following the small-scale strike by the ITU, the EU eased the situation by disbursing funds to cover last December’s salaries, but the national staff continued to threaten to go on strike court-wide if a comprehensive solution was not presented before 1 April.

David Scheffer, the UN’s special expert to the Khmer Rouge tribunal, worked behind the scenes throughout March to secure funding for the national side.

Norway Pledges US\$1 Million for ECCC

The Government of Norway pledged a new contribution of NOK 6,000,000 (approximately US\$1 million) on 25 March to the Extraordinary Chambers in the Courts of Cambodia.

The money was originally intended to support the international component of the court, but Norway later agreed to redirect this donation to the cash-strapped national component of the court to be used for the payment of the outstanding salaries of national staff.

“We would like to express our sincere gratitude for the Government of Norway’s decision to continue to support the ECCC with another generous financial contribution”, Acting Director of the Office of Administration HE KRANH Tony and Deputy Director Knut Rosandhaug said in a statement.

Norway has provided financial assistance to the ECCC since the court’s inception. With the new pledge, Norway’s total contribution to the ECCC will exceed US\$6 million.

German Delegation Pays Visit to ECCC



The BMZ delegation, led by Dr. Andreas Pfeil, met with VSS, and the lead co-lawyers for the civil parties.

A group of German diplomats from the Federal Ministry for Economic Cooperation and Development (BMZ) visited the Extraordinary Chambers in the Courts of Cambodia on 5 March.

Acting Director of Administration Tony Kranh welcomed the delegation before their meetings with members of the Victims Support

Section and the Lead Co-lawyers for the Civil Parties. Germany is the major financial supporter of the Reparations and Non-Judicial Measures Programme, jointly conceived by the Victims Support Section and Civil Parties, which aims to rehabilitate and relieve the pain of victims of the Khmer Rouge (see article page 7).



Dr. Andreas Pfeil and Acting Director of Administration Tony Kranh in front of the ECCC logo.

In The Courtroom

Case 002

Hearing of Evidence, Fitness and Severance

March hearings in Case 002 at the Extraordinary Chambers in the Courts of Cambodia were interrupted by the announcement of a strike by national interpreters and the hospitalisation and subsequent death of defendant Ieng Sary.

The Trial Chamber continued to consider the implications of the Supreme Court Chamber's February decision to invalidate the original severance order of Case 002 concerning former Khmer Rouge leaders Nuon Chea, Khieu Samphan and Ieng Sary, after hearings on the issues raised by that decision.

The chamber heard testimonies of court-appointed medical experts on the fitness of Nuon Chea and arguments of the parties on severance before rendering oral decisions on the two matters, thus enabling proceedings to resume.

Hearings of two expert witnesses scheduled in March were postponed due to the strike and Ieng Sary's hospitalisation and subsequent death.

Expert Witnesses Rescheduled Again

4 March 2013

The Trial Chamber postponed on 4 March hearings of two expert witnesses scheduled on 4-7 and 11-14 March due to the hospitalisation and subsequent death of Ieng Sary, coupled with the strike announced by national staff of the Interpretation and Translation Unit in the beginning of the hearing.

The postponed experts are British author Philip Short and American journalist Elizabeth Becker. Mr Short is an internationally renowned journalist and the author of *Pol Pot: Anatomy of a Nightmare*.

Ms Becker, author of *When the War Was Over*, is also an internationally renowned journalist who worked in Cambodia until the Khmer Rouge took over in 1975, and returned in 1978 to report on the regime.

Both were scheduled to testify about the operation and structure of the Khmer Rouge, as well as Nuon Chea and Khieu Samphan's respective roles within the regime.

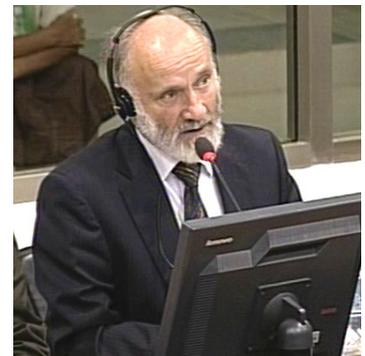
Fitness Hearings on Nuon Chea

25 March 2013

Following medical assessments of Nuon Chea's fitness by experts, the Trial Chamber called the two court-appointed medical experts and examined their findings in a public hearing.

Geriatrician Dr John Campbell of New Zealand testified that Nuon Chea, despite numerous chronic health conditions, remains capable of participation in his own defence. He recommended a physiotherapy programme for the accused to help improve his strength.

Forensic psychiatrist Dr Seena Fazel of the UK testified that Nuon Chea has no cognitive incapacity which impairs his ability to confer with his counsel, citing good results of his recent assessments on the accused's concentration and short-term and long-term memory conducted in three different occasions.



Dr John Campbell testifies in Case 002



Dr Seena Fazel testifies in Case 002

Oral Decisions Fitness and Severance in Case 002

29 March 2013

The Trial Chamber rendered two oral decisions on 29 March, declaring Nuon Chea fit to stand trial and once again severing proceedings in Case 002, confining the scope of this trial to two phases of forced movements of population and executions committed at Tuol Po Chrey in the aftermath of the evacuation of Phnom Penh.

After pronouncing the two decisions, President Nil Nonn announced that written decisions with detailed reasons will follow in

due course and the hearing of evidence in the first trial will resume on 8 April.

The Trial Chamber has since scheduled upcoming hearings, starting from a further testimony of witness Mr Chhaom Se, a former chief of a re-education center in Division 801 in Rattanakiri during the Khmer Rouge regime who first came to testify in January. (See related article on page 5)

Nuon Chea Affirmed Fit to Stand Trial

Accused Nuon Chea, former deputy secretary of the communist party of Democratic Kampuchea, has been found capable of participating in his own defence and declared fit to stand trial by the Trial Chamber, following medical and legal assessments of his fitness in March.

“Notwithstanding the advanced age and frailty of the accused and the accused’s precarious physical health, the testimony of the medical experts clearly indicate that the accused remains capable of participating in his own defence,” said President Nil Nonn in a public hearing to render two oral decisions on 29 March.

Two court-appointed medical experts, geriatrician Dr John Campbell of New Zealand and forensic psychiatrist Dr Seena Fazel of the UK, earlier conducted medical assessments of Nuon Chea and testified about their findings in a public hearing on 25 March. At that time, the two experts stated that the accused is physically and mentally capable of meaningfully participating in the trial proceedings, despite a number of ailments and general frailty of his health.

According to a written decision following the oral one, the chamber found that “the Accused does not suffer from any long-term or short-term memory loss that would render him incapable of participating in his own

defence”; and that “the Accused is capable to plead; understand the nature of the charges, the course of the proceedings, the details of the evidence and the consequences of the proceedings; to instruct counsel; and to testify.” The chamber affirmed its earlier findings that the accused is fit to stand trial.

During the fitness hearing, the counsels for Nuon Chea voiced their doubt about the findings and questioned the witnesses about episodes of short-term memory loss and physical deterioration. The witnesses explained these as being consistent with someone of Nuon Chea’s age. Meanwhile, the prosecution pressed the geriatrician on his earlier statement that he “would not be surprised were Nuon Chea to pass away in the next six months.” Dr Campbell emphasised that while it is impossible to indicate with certainty how long the accused will continue to live, at 86 years of age, with underlying cardiovascular disease, cerebrovascular disease and frailty, the accused’s prognosis is precarious and uncertain.

Nuon Chea has been suffering from heart disease and moderate kidney deficiency among other ailments associated with his advanced age. Most recently, he was hospitalized for a number of weeks in January and February with acute bronchitis and hypertension, respectively.

Live Stream of Hearings Available



A screenshot of the ECCC website

The Extraordinary Chambers in the Courts Cambodia expanded its outreach capacity in March, adding a live streaming feature to its official website (<http://www.eccc.gov.kh/>).

The high-resolution stream is available in English, French and Khmer and requires a minimum of a 1 megabit connection. The stream is provided through a “dedicated link host”, making its performance immune to large volumes of traffic on the site. The service, which was previously tested during the testimony of Kaing Guek Eav (alias Duch) in Case 002, will be available for all public hearings from now on.



A panoramic view of the main courtroom in the Extraordinary Chambers in the Courts of Cambodia.

Visitor Statistics

Public interest in the ongoing trial of the former Khmer Rouge leaders remains high. By the end of March, the Trial Chamber concluded 161 trial days, where a total of 54 witnesses, experts and civil parties have testified. At this time, a total of 75,126 persons have attended the trial hearings in Case 002, 82% of whom were Cambodian nationals brought to the court by the ECCC’s free transportation services.

DATE	PUBLIC VISITORS			JOURNALISTS		NGO	CIVIL PARTY	VIP	TOTAL
	National		Int'l	National	Int'l				
	PAS	Others							
04/03/2013	319		9	4	7	3	28		370
25/03/2013	199	5		9	5	5	37	3	271
29/03/2013	233		9	10	12	7	29		300
Sub-Total: Feb	751	5	26	23	24	15	94	3	941
Total: Day 1- Day 161 (Nov 2011 - March 2013)	61,870	1,799	2,038	1,938	1029	891	5,228	333	75,126

Remote Cambodians in Preah Vihear Sensitized by ECCC Outreach Team



District, commune, and village leaders attend an outreach presentation by the Public Affairs Section

The Extraordinary Chambers in the Courts of Cambodia sent a rare outreach mission to Preah Vihear Province, near the Thai-Cambodia border, in early March to deliver the latest information on the work of the court to the Cambodians living in a remote corner of the country.

More than 500 people from across the province gathered on 4 March at a temple in Koh Ker, the one-time ancient capital of the Khmer Empire, to receive informational ma-



Chief of Public Affairs Dim Sovannarom distributes educational materials to the audience in Preah Vihear

terial and to hear a briefing about the set-up and achievements of the ECCC. Attendants included 450 district and commune chiefs and council members and other village leaders.

The outreach mission to Preah Vihear was the second one by the ECCC's Public Affairs Section since the inception of the court in 2006. Chief of Public Affairs Dim Sovannarom addressed the audience about the historical background of the ECCC establishment and the latest developments in the judicial proceedings.

The presentation concluded with a question and answer session. The participants asked questions mostly revolving around the amount of time and money invested in the court. The Public Affairs team endeavored to explain that such investments are all in the interests of due process.

At the conclusion of the visit, the participants received the summary judgment in Case 001 and the ECCC's introductory booklet, among other educational materials.

Following the visit, the participants have requested to arrange an ECCC study tour for people of Preah Vihear to visit the court, the Tuol Sleng national museum and Cheung Ek killing fields for guided tours in April.

Genocide Forum Draws ECCC Staff

Officials of the Extraordinary Chambers in the Courts of Cambodia attended the 4th Regional Forum on the Prevention of Genocide, which took place in Phnom Penh from 28 February until 1 March.

The two-day event consisted of a number of panel discussions—"What is genocide and how to prevent it?"; "Asian Experiences and visions for the future"—led by distinguished academics and career peace-builders.

The Forum was co-organized by the nations of Argentina, Tanzania and Switzerland, who have hosted the event in 2008, 2010 and 2011, respectively. The Forum aims to strengthen regional and global networks for the future prevention of genocide.

American Law Students Meet ECCC Officials

A group of 16 Northwestern University School of Law students from Chicago, USA, visited the Extraordinary Chambers in the Courts of Cambodia on 19 March.

The students are members of an international team project studying legal, governmental, economic and societal issues in Cambodia and Vietnam. According to group leader Alexius O'Malley, the students spent two weeks in Cambodia performing interviews and research. Their visit to the ECCC was the highlight for many who have long-admired the work of the Cambodian and international lawyers, UN experts and staffers who have spent their careers seeking justice for the millions of Cambodian victims of the Khmer Rouge regime.

The day was filled with candid discussions about the importance and legacy of the ECCC, its impact on Cambodian society, and the work that lies ahead.

Reparations & Non-judicial Measures Program Underway

A victims support wing of the Khmer Rouge tribunal and project partners are actively seeking funds from states, foundations, companies and individuals to make the full list of reparations and non-judicial measures a reality.

In order to address needs of civil parties as well as other victims, the Victims Support Section and Civil Party Lead Co-Lawyers of the Extraordinary Chambers in the Courts of Cambodia have jointly conceived nine reparation projects and seven non-judicial measures to make up the Reparation and Non-Judicial Measures Programme.

These initiatives can be divided into four broad categories: remembrance, rehabilitation, documentation and education. Taken together, they are intended to rehabilitate and relieve the suffering of the victims of the Khmer Rouge regime.

Reparations and non-judicial measures, though similar, differ in that the former are claimed through the judicial process by the civil parties to the proceedings and, if awarded by the Trial Chamber after the accused are found guilty, represent a legal acknowledgment of their suffering and entitlement to have this suffering repaired. Conversely, non-judicial measures are carried out by the Victims Support Section to address the broader interests of the victims of the Khmer Rouge regime. The non-judicial measures and an externally-funded avenue for reparations were introduced to more effectively meet the Civil Parties' and victims' need for meaningful redress, following the very limited reparations awarded in Case 001.

The civil parties to Case 002 made a preliminary submission to the Trial Chamber on 15 February outlining seven prioritized reparations among the nine reparation projects, although the list could change before the civil parties make their final claim.

According to International Civil Party Lead Co-Lawyer Elisabeth Simonneau-Fort, signifi-

ECCC Reparation Program 2013-2017 Overview



Category	Projects (9 Reparations, 7 NJMs)	Mandate	Partner	Timing	USD*	
Remembrance	1. National Remembrance Day	Reparation	RGC	ASAP	250,000	
	2. Community Memorials Initiative	Reparation	RGC, NGO	ASAP	475,000	
	3. Preservation of Crimes Sites	Reparation	RGC, NGO	2013-2017	400,000	
	4. Tuol Sleng Stupa Project	NJM	RGC, Vict. Ass.	2013-2017	70,000	
Rehabilitation	5. Testimonial Therapy Initiative	Reparation	NGO	ASAP	275,000	
	6. Self Help Groups for Rehabilitation	Reparation	NGO	ASAP	275,000	
	7. Gender & Transitional Justice Project	NJM	NGO	2013-2017	425,000	
	8. National Reconciliation Event	NJM	RGC, NGO	2013	250,000	
Documentation	9. Forced Transfer Exhibition	Reparation	RGC, NGO	ASAP	550,000	
	10. Victims Register	Reparation	RGC, NGO	2013-2017	250,000	
	11. Publication of ECCC Verdict	Reparation	ECCC	2014	50,000	
	12. ECCC Documentation Center	NJM	RGC, ECCC	2013-2017	500,000	
Education	13. Chapter on Victims Participation in a National History Textbook	Reparation	RGC, NGO	ASAP	500,000	
	14. ECCC Virtual Tribunal	NJM	ECCC	2013-2017	180,000	
	15. Community Peace Learning Centers	NJM	NGO	2013-2017	550,000	
	16. Victims Foundation of Cambodia	NJM	RGC, ECCC	2013-2017	2,000,000	
					5 years	7,000,000

* ECCC Reparation Program 2013-2017 including estimated project budget allocation in USD; subject to change

cant progress has already been made on a number of the proposed reparations measures. The National Remembrance Day, for example, has been thoroughly designed; Victims Support Section staff are currently waiting for an audience with authorities who can authorize such a project. The Testimonial Therapy Initiative has likewise taken form, aided by NGO partner the Transcultural Psychosocial Organisation (TPO). Another partner, Documentation Center of Cambodia (DC-Cam), is well on its way to producing a chapter on forced transfer for its national history textbook. Finally, the Public Memorials Initiative, developed in cooperation with Youth for Peace and Kdei Karuna, is quickly taking shape.

Although many of the complementary non-judicial measures exist only on paper at this

stage, Victims Support Section Head Im Sophea says the Gender and Transitional Justice Project is already being implemented in conjunction with NGO partners TPO and the Cambodian Defender Project (CDP). The Virtual Tribunal—a user-friendly online archive of ECCC documents, photos and video—is also in progress. A reconstruction project of a stupa in the Tuol Sleng National Museum is currently being worked out by the VSS and the Ministry of Culture and Fine Arts.

Responsible for raising funds for these reparations and non-judicial measures, the VSS has so far approached about 30 potential donors to explain the scope of the ground programme and has received positive feedback from them, particularly from Germany and Australia.

New Website on Ieng Sary's Defence Launched

The defence team for the late Ieng Sary launched a new website on 28 March to serve as a public record of the proceedings against their client.

The site (www.iengsardefence.org) provides English versions of all Case 002 court documents relevant to Ieng Sary, from the pre-trial stage up until the termination of proceedings against him following his death in custody on 14 March. It also features redactions and summaries of confidential filings and decisions. A limited number of French and Khmer-

language translations are available for download as well.

Ieng Sary, former deputy prime minister for foreign affairs during the Khmer Rouge regime, was brought to trial for charges of genocide and other international crimes along with two other co-defendants, but died of natural causes before a verdict was rendered. Consequently, criminal and civil actions against the accused were terminated.

The defence team says in a press release that the team made efforts "to protect and promote" Ieng Sary's human and fair trial

rights, and that the website is "a continuation of that endeavor." They hope that such transparency will positively contribute to the ultimate legacy of the Extraordinary Chambers in the Courts of Cambodia.

According to the defence team, the site is still a work in progress, but all correspondence between the defence team and various chambers—including letters and emails—will be uploaded over the coming months, eventually creating a comprehensive record of Ieng Sary's involvement in Case 002.

Every month, each section of the Extraordinary Chambers in the Courts of Cambodia compiles a summary of its activities to inform the general public on the latest developments of the court. The following are updates from each section on the activities of **March 2013**. For decisions and orders, please refer to page 10.

Pre-Trial Chamber

During the reporting period, the Pre-Trial Chamber was seized of two matters and disposed of a number of procedural and other case-management matters.

The two pending matters include an appeal filed on 28 February in Case 004 and a Request for the Reconsideration of a Civil Party Application in Case 002 which was filed on 11 March.

Supreme Court Chamber

The Supreme Court Chamber continued its examination of:

- Ieng Sary's appeal against the Trial Chamber's oral decision to deny his right to be present in the courtroom and to prohibit him from being video-recorded in the holding cell;
- Ieng Sary's appeal against the Trial Chamber's decision that he is fit to stand trial and its refusal to appoint an additional expert to assess fitness;
- Ieng Sary's appeal against the Trial Chamber's decision on Defence requests concerning irregularities alleged to have occurred during the judicial investigation;
- Ieng Sary's appeal against the Trial Chamber's 16 January Decision to Deny His Request to be Audio and/or Video Recorded in the Holding Cell (together, "Ieng Sary Appeals");
- Nuon Chea's appeal against the Trial Chamber's decision pertaining to an application for immediate action pursuant to Internal Rule 35 ("Rule 35 Appeal");
- Khieu Samphan's request that orders and decisions of the Supreme Court Chamber are notified in all three official languages of the ECCC.

Upon Ieng Sary's death on 14 March, however, the Supreme Court Chamber lost jurisdiction to decide on the Ieng Sary appeals, and accordingly dismissed them

without deciding on their merits.

With respect to the Rule 35 Appeal, the Supreme Court Chamber requested information from the Office of the Co-Investigating Judges on any investigations undertaken into interference in Cases 003 and 004. The defence for Nuon Chea subsequently filed a request that the Supreme Court Chamber consider additional evidence. On 25 March, the Supreme Court Chamber dismissed the Rule 35 Appeal, along with the Request for additional evidence.

On 25 March, the Supreme Court Chamber also became seized of an appeal by Khieu Samphan against a decision of the Trial Chamber regarding the hearing of expert witnesses before the issuance of a decision on the severance of Case 002. Further, on 26 March, the Supreme Court Chamber became seized of requests by both the Trial Chamber and Ieng Thirith's defense team for clarification on the interpretation and implementation of the Supreme Court Chamber's Decision of 14 December 2012 on the appeal against the Trial Chamber's order to unconditionally release Ieng Thirith. The appeal and requests are currently under consideration.

Office of the Co-Investigating Judges

During the month of March, the international side of the Office of the Co-Investigating Judges continued to investigate Case Files 003 and 004. Three hundred and twenty-one civil party applications have been received and placed in Case File 003, their admissibility as evidence to be assessed by the Legal Unit. Seven hundred and sixty civil party applications have been received and placed in Case File 004, with their admissibility also being subjected to a thorough scrutiny.

In respect to Case 003, one field mission was conducted. One witness statement was produced and one Site Identification Report was drafted. In relation to Case 004, OCIJ investigators went on two field missions. Nine witness statements were

taken.

In Case File 003, a new rogatory letter was issued. In Case file 004, the validity of four rogatory letters ordering specific investigative action was extended and a new one was issued.

The Analysts Unit continues conducting on-site reviews of documentary evidence provided by external sources, as well as participating in the field missions.

The Legal Unit welcomed the arrival of three new legal officers: Ms Julie Bardeche (French national), Ms Sarah Kryz (French national) and Ms Kate Salmond (New Zealand national). The Investigations Unit incorporated a new investigator specialized in gender based violence: Ms Julie Plante, a Canadian national.

OCIJ has now reached the allocated quota of interns. Given its financial constraints, the internship programme has provided the OCIJ with an invaluable source of qualified young professionals.

Office of the Co-Prosecutors

Case 002: The OCP continued to litigate Case 002 both in the courtroom and through written submissions to the Trial Chamber and Supreme Court Chamber. In court, the Co-Prosecutors and other OCP staff participated in the medical fitness hearing for Nuon Chea and the oral decision on severance.

Through filings, the OCP addressed a number of matters: filing a Rule 87(4) request to place photographs on the Case File in regards to the anticipated testimony of Elizabeth Becker; a response to a Khieu Samphan filing regarding the admissibility of "new" documents; and a proposed schedule for the completion of trial proceedings in Case 002.

Case 003: The OCP continues to analyze the evidence in and monitor the progress of Case File 003.

Case 004: The OCP continues to analyze the evidence in and monitor the progress of Case File 004.

Defence Support Section

March was marked by very few hearing days due to a strike by Cambodian staff and the declining health and eventual death of the accused Ieng Sary. Ieng Sary was admitted to the hospital on 4 March for stomach, heart, and back problems and died on 14 March at 87 years old. In accordance with a request filed by the Ieng Sary Defence team prior to his death, no autopsy was conducted on Ieng Sary's body, and his family was permitted to take his body to Malai District for cremation. The funeral was attended by mourners including members of the Defence team, the Governor of Pailin, and Ieng Sary's wife, Co-Accused Ieng Thirith, who was released from ECCC custody after she was found unfit to stand trial.

A hearing about Nuon Chea's fitness to stand trial was held on 25 March. After examining Nuon Chea, expert doctors declared him mentally and physically fit to stand trial, but noted his advanced age. The Nuon Chea Defence suggested that the accused receive further treatment at a hospital before participating in the proceedings. On 29 March the Court decided that Nuon Chea was fit to stand trial.

On the same day, the Supreme Court Chamber rejected an appeal filed by the Nuon Chea Defence requesting investigation of former International Co-Investigating Judge Laurent Kasper-Ansermet's assertion that the government of Cambodia was interfering with the ECCC's work.

The Khieu Samphan Defence filed a motion for the immediate release from custody of the accused on 29 March. The motion argues that the right of the accused to a speedy trial has been violated: although he is presumed innocent, at 82 years old he has already been in prison 5 years and 4 months, unjustifiably, with no prediction as to when he will be judged.

CP Lead Co-Lawyers Section

The Civil Parties submitted a list of documents to the Trial Chamber of the Extraordinary Chambers of the Courts in Cambodia on 4 March. Through this sub-

mission, the Civil Parties endeavoured to provide the Chamber with specifications on the Civil Party written statements that they seek to tender into evidence. Lawyers for the Civil Parties intend that this important evidence, provided by the Civil Parties in their Civil Party Applications, will be considered by the Trial Chamber in its determination on the guilt of the Accused and in substantiating their claim for reparations.

The National and International Lead Co-Lawyers met with a delegation led by Dr. Andreas Pfeil, the head of Division of the Federal Ministry for Economic Cooperation and Development (BMZ) on 5 March. During the meeting, the Lead Co-Lawyers explained the modality of Civil Party participation and representation at the ECCC, as well as the importance and current status of the reparation projects to be claimed before the Chamber.

The National Lead Co-Lawyer attended the Regional Forum on Civil Party Participation in Case 002 on 15 March, organised by the Victim Support Section in Battambang province. At this forum, 150 Civil parties from Battambang, Pailin, Bantay Meanchey, Pursat and Odor Meanchey provinces released a public statement in which they lamented that Ieng Sary had passed away before a verdict on his culpability could be issued. They also expressed fear that his death might increase the risk that the ECCC will not be able to provide justice for the victims.

In their statement, these Civil Parties strongly request that: 1.) Donors, the United Nations and the Royal Government of Cambodia continue to collaborate and support the ECCC in order that the hearings can continue and the Court can complete its mission successfully. 2.) The ECCC speed up its judicial process because the Accused are of an advanced age and suffer from repeated health scares/diseases. 3.) In the interest of justice and the history of Cambodia, Mr Nuon Chea and Mr Khieu Samphan cooperate by telling the truth before the Chamber and speaking/making statements of truth in public, especially before the Civil Parties and all victims.

During the hearings in March, the Lead Co-Lawyers and Civil Party Lawyers had the opportunity to raise Civil Party concerns to the Trial Chamber that hearings are sped up and the Accused speak in the interest of truth and the historical record.

Victims Support Section

Legal Work

The Processing and Analysis Team (PAT) received 27 Civil Party (CP) applications in Case 004, 2 applications in Case 003, and 3 pieces of supplementary information from applicants of Case 004. The team continued to process documents from applicants and filed 26 applications in Case 004 and 2 in Case 003 with the Office of the Co-Investigating Judges. The staff also received 1 request from an international lawyer to represent 10 CPs in Case 002, which was later filed with the OCIJ.

Reparation & Non-Judicial Measures

On 5 March the VSS were privileged to meet with a delegation from the German Federal Ministry for Economic Cooperation and Development, as well as representatives of the German Embassy in Cambodia, to observe/learn about VSS and its RP&NJM program.

The RP&NJM Team continued to work with the organization Youth for Peace most notably on the Community Peace Learning Center Project Design.

On 15 March, the team was invited to the Testimonial Therapy Ceremony which was organized by TPO at Choeung Ek (Killing Fields). The ceremony is part of TPO's adapted short-term trauma therapy for victims of the Khmer Rouge regime.

On Thursday 21 March, R&NJM Team had a meeting with the Swiss Agency for Development and Cooperation (SDC) to discuss the ECCC Reparation Program 2013-2017 and for fundraising to support the implementation of activities outlined in the ECCC Reparation Program for the benefit of the Civil Parties and victims of the Khmer Rouge regime.

Outreach work

The VSS held its 5th Regional Forum for 175 out of 3,866 Civil Parties in Case 002 (90 females) in Battambang Province on 15 March. In the morning, the participants sat in a panel discussion with representatives of the VSS and Lawyers for the Civil Parties. In the afternoon, they met in groups with their respective CP lawyers, and viewed brief video clips of the "Duch Apology." The CPs were able to share impressions about the work of the ECCC and Ieng Sary's death.

Decisions/Orders

Public versions of the decisions, orders, opinions and considerations, some of which are redacted, are available on the official ECCC website: www.eccc.gov.kh.

Trial Chamber

29 March 2013: *Decision on Accused Nuon Chea's Fitness to Stand Trial (E256/5)*

The Trial Chamber rendered an oral decision on the fitness of the Accused Nuon Chea, finding that he is capable of meaningful participation in his own defence and is therefore fit to stand trial.

29 March 2013: *Decision on the Issue of Severance for Proceedings of Case 002*

The Trial Chamber rendered an oral decision on severance to re-sever Case 002 and confine the first trial to the first two phases of forced movement of population and the executions at Tuol Po Chrey. A written decision will follow.



An exterior view of the Extraordinary Chambers in the Courts of Cambodia

Supreme Court Chamber

5 March 2013: *Memorandum from Judge KONG Srim, President of the Supreme Court Chamber, entitled "Request for information in relation to investigations into interference in Cases 003 and 004" (E189/3/1/5)*

The Supreme Court Chamber considered it desirable for the proper adjudication of the Rule 35 Appeal launched by Nuon Chea to be informed of what, if any, formal action was taken by the Office of the Co-Investigating Judges in response to Judge Laurent Kasper-Ansermet's allegations of interference into Cases 003 and 004.

12 March 2013: *Order for Immediate Compliance with Rule 108 of the Internal Rules (E238/9/1/4)*

The Supreme Court Chamber ordered the Trial Chamber to immediately forward the entirety of the case file in Case 002 to the Supreme Court Chamber.

21 March 2013: *Post Mortem Dismissal of Ieng Sary's Immediate Appeals (E238/9/1/5)*

Following Ieng Sary's death and the Trial Chamber's termination of the proceedings against him, the Supreme Court Chamber dismissed all pending appeals by Ieng Sary without deciding on their merits.

25 March 2013: *Decision on Nuon Chea's "Immediate Appeal Against Trial Chamber Decision on Application for Immediate Action Pursuant to Rule 35" (E189/3/1/8)*

The Supreme Court Chamber dismissed Nuon Chea's Rule 35 Appeal, finding no error in the Trial Chamber's conclusion that the Defence did not demonstrate that there had been interference with Case 002. The Supreme Court Chamber also agreed with the Trial Chamber's assessment that the Defence's submissions were repetitious, and considered that the Defence's request for a full investigation into government interference in Case 002 was too broad to be conducive to judicial action.

Hearings (For an updated hearing schedule, visit <http://www.eccc.gov.kh/en/event/court-schedule>)

Hearing of evidence in Case 002:

8-11 April, 09:00-16:00
 12 April, If necessary
 22-25 April, 09:00-16:00
 29 April, 09:00-16:00
 2-3 May, 09:00-16:00

4 May, If necessary
 6-9 May, 09:00- 16:00

Upcoming Trial Recesses:

15-19 April (Khmer New Year);
 13-17 May (King's Birthday week)

Outreach Activities

March: Asian International Justice Initiative publishes weekly reports (issue no. 46-54); it also live tweets ECCC proceedings and posts a summary to Facebook page KRT trial monitor.

4-7 March: Kdei Karuna involves 20-30 Prey Veng villagers in its Community Memory Initiative. They repeat this activity from 19-22 March.

10-15 March: Kdei Karuna staff train about 40 villagers in mediation and non-violent conflict resolution in Rattanakiri and Mondolkiri, respectively.

19 March: CDP hosts a radio to discuss gender based violence during the Khmer Rouge Regime.

20-22 March: Kdei Karuna screens a film on reconciliation for 20-30 villagers in Kratie.

25-28 March: Kdei Karuna hosts a TOT workshop.

27 March: CDP holds a Gender Thematic Workshop on Psychosocial Support to discuss practices and problems in the field.

1-3 April: Kdei Karuna screens a film before 20-30 participants to educate them about the process of reconciliation in Kratie. They also stage a memorialisation activity in Kampong Speu.

4 April : Representatives of the Public Affairs Section participated in the Youth Resource Development Program (YRDP) Dialogue on the issue of the legacy of the ECCC.

04-06 April: Kdei Karuna conducts a study tour with 20 people from Prey Veng around different sites to learn from past memory work.

9 April : CDP conducts a meeting between the Civil Parties and the Civil Party lawyers in Kampong Speu Province.

23 April: CDP hosts a radio show titled "Trial attendance: Its importance, benefits and challenges."

23-27 April: Kdei Karuna conducts TOT assessment of 20 villagers in both Mondulkiri and Rattanakiri in regards to issues of historical trauma and justice.

23-26 April: Kdei Karuna conducts CMI Culmination Dialogue where 10-10 key actors from the CMI Study Tour are able to share lessons they



International participants of the Memory Initiatives Exchange program.

ECCC Outreach

The Public Affairs Section hosts **Khmer Rouge Tribunal Study Tours**, bringing groups of 200-300 villagers from areas throughout Cambodia to attend the ongoing hearings of Case 002, have a guided tour of the Tuol Sleng Genocide Museum, and visit the Choeung Ek Killing Fields. During the trial recesses, the Public Affairs Section conducts **school visits** to give briefings, as well as hosts **community video screenings** across Cambodia. The Public Affairs Section also welcomes international group visits, and provides briefings and court tours.

March 2013

SUN	MON	TUE	WED	THU	FRI	SAT
24	25	26	27	28	1 Recess	2
3	4	5 Study tour	6	7 Visit / Study tour	8 Khmer holiday	9
10	11	12 Study tour	13	14 Visit / Study tour	15	16
17	18	19 Study tour	20	21 Study tour	22	23
24	25 Hearing 002	26 Hearing 002	27 Hearing 002	28 Hearing 002	29 Hearing 002	30
31	1	2	3	4	5	6

April 2013

SUN	MON	TUE	WED	THU	FRI	SAT
31	1	2	3	4 YRDP Youth Dialogue	5	6
7	8 Hearing 002. Study tour.	9 Hearing 002. Study Tour.	10 Hearing 002. Study Tour.	11 Hearing 002. Study Tour.	12 Hearing 002 (if necessary)	13
14	15 Khmer New Year	16 Khmer New Year	17 Khmer New Year	18	19	20
21	22 Hearing 002	23 Hearing 002	24 Hearing 002	25 Hearing 002	26	27
28	29 Hearing 002	30	1	2	3	4



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

“Everyone can be involved in the process”



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The Court Report

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