



# The Court Report

## The Extraordinary Chambers in the Courts of Cambodia

Moving forward through justice



Defendants Nuon Chea and Khieu Samphan listen to the pronouncement of Appeal Judgement in Case 002/01 by Supreme Court Chamber of the ECCC on 23 November 2016. Photo Nhet Sokheng

## Life imprisonment for Nuon Chea and Khieu Samphan in Case 002/01

During the pronouncement of its judgement on appeal against the trial judgement in Case 002/01 on 23 November 2016, the Supreme Court Chamber upheld Nuon Chea and Khieu Samphan's convictions for crimes against humanity of murder, persecution on political grounds and other inhumane acts in relation to the evacuation of Phnom Penh immediately after the fall of the city on 17 April 1975. In relation to the second phase of population transfers that occurred between 1975 and 1977, the Chamber affirmed the Accuseds' conviction for the crime against humanity of other inhumane acts, and entered a conviction for the crime

against humanity of murder.

It is final judgement in Case 002/01 against Nuon Chea, former Deputy Secretary of the Communist Party of Kampuchea, and Khieu Samphan, former Head of State of Democratic Kampuchea Regime. To conclude this Case 002/01, the Trial Chamber had conducted 222 days and 92 testimonies were heard (58 witnesses, 31 Civil Parties and three experts) while the Supreme Court Chamber conducted seven days of hearing and three new witnesses were called for testimonies.

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# Life imprisonment for Nuon Chea and Khieu Samphân

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In its decision, the Supreme Court Chamber reversed the convictions entered by the Trial Chamber for the crime against humanity of extermination in relation to the evacuation of Phnom Penh and the second phase of population transfers. It found that the evidence before the Trial Chamber in relation to the population movements did not establish beyond reasonable doubt that the requisite killings on a large scale were committed with direct intent.

In relation to the second phase of population transfers, the Supreme Court Chamber also reversed the Trial Chamber's convictions for the crime against humanity of persecution on political grounds, having found that the evidence had not established that the vast majority of evacuees had been "New People". As such, it has not been established that the transfers were, in fact, discriminatory.

While the Supreme Court Chamber confirmed that at least 250 LON Nol soldiers and officials had been executed at Tuol Po Chrey at the end of April 1975 and that therefore crimes against humanity had likely been committed,

the evidence before the Trial Chamber was considered to be inadequate to reasonably substantiate a finding that, at the time of the events, there had been a policy to kill all LON Nol soldiers. Most of the evidence consists of out-of-court statements, which have low probative value.

Moreover, the Trial Chamber failed to consider several pieces of evidence, which called into question the existence of a blanket policy to kill. Accordingly, the events at Tuol Po Chrey could not be imputed to the Accused and as a result they cannot be held criminally liable for them. For that reason, the Supreme Court Chamber reversed the Nuon Chea's and Khieu Samphan's convictions for the crimes against humanity of extermination, murder and persecution on political grounds at Tuol Po Chrey.

The Supreme Court Chamber considered whether the errors it found in some of the Trial Chamber's conclusions should lead to a revision of the sentences imposed by the Trial Chamber. The Supreme Court Chamber felt that the gravity of the crimes should be reflected in the sentence. In view of the massive scale of the crimes, the complete lack of consideration for the ultimate fate of the

Cambodian population, especially the most vulnerable groups, the fact that the crimes were not isolated events but occurred over an extended period of time, and the significant roles of the Accused, the Supreme Court Chamber concluded that the imposition of a life sentence for both of the Accused was appropriate and therefore confirmed the sentence imposed by the Trial Chamber.

An appeal by the Co-Prosecutor's limited to seeking declaratory relief on the applicability of the most extended form of joint criminal enterprise (JCE) before the Extraordinary Chambers in the Courts of Cambodia, was found inadmissible. The appeals brought by the Accused have, nevertheless, seized the Supreme Court Chamber with the questions related to the notion of JCE, including aspects raised by the Co-Prosecutors' appeal.

Nuon Chea and Khieu Samphân will continue to be detained in ECCC's Detention Centre and face the trials in Case 002/02, in which they were charged for crimes against humanity, war crimes and genocide. It is expected that evidentiary hearings will conclude in early 2017, with a judgement to follow by the end of the same year.





H.E. Tan Thany, Secretary of State of the Council of Ministers representative of Deputy Prime Minister Sok An addressed to the Media after the pronouncement of Appeal Judgement in Case 002/01 on 23 November 2016.

## Reactions to Appeal Judgement in Case 002/01

### **Government of Cambodia DPM Sok An**

Today is a historical day for our country and for all humanity. During nearly four decades since the Khmer Rouge regime of Democratic Kampuchea was overthrown on 7 January 1979, we have never hesitated in our pursuit of justice for the crimes committed during those three years, eight months and 20 days in which millions of our people lost their lives.

The seven judges of the Supreme Court Chamber have today brought this landmark case to its conclusion by making the final judgement. I take this opportunity to express deep appreciation to all who have contributed to this process - the judges and prosecutors, lawyers, court officials and staff, both national and foreign; and the people and government who have provided the funds - the friends of the ECCC.

Today, the people of Cambodia and all the world remember those who died, as well as those who still suffer from the crimes of that regime. We express our hope that this trial and today's delivery of the final judgement bring some relief for your pain and suffering.

### **Statement attributable to the Spokesman for the Secretary-General on Cambodia**

The Secretary-General takes note of today's delivery by the Extraordinary Chambers in the Courts of Cambodia (ECCC) of the appeal judgment

in the Case 002/01 against Mr. Nuon Chea, former Deputy Secretary of the Communist Party of Kampuchea, and Mr. Khieu Samphan, former Head of State of Democratic Kampuchea.

The Secretary-General's thoughts are with the victims of the crimes against humanity of murder, persecution on political grounds and other inhumane acts for which the Accused have both been found guilty. The Secretary-General deeply appreciates the dedication and hard work of everyone involved in the important work of the ECCC to pursue justice and accountability in Cambodia. The Secretary-General calls on Member States to continue providing financial and other support to the ECCC.

### **Statement by the EU Spokesperson on the judgement of the ECCC (Khmer Rouge Tribunal)**

The Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC or so-called Khmer Rouge Tribunal) today confirmed life sentences for defendants Nuon Chea and Khieu Samphan for crimes against humanity related to the forced transfer of people following the seizure of power by the Khmer Rouge in April 1975. This decision is an important step forward in international criminal law and in the fight against impunity for serious human rights violations.

The ECCC has played a crucial role in addressing a very painful chapter in the history of Cambodia. It

## Japan makes a new contribution of US\$1,120,000 to the ECCC

The Government of Japan has announced a new contribution of US\$1,120,000 to the international component of the Extraordinary Chambers in the Court of Cambodia (ECCC). This contribution brings the total financial assistance provided by the Government of Japan to the ECCC (national and international components) to US\$85 million approximately or 32% of the total contribution by donors, which makes it the largest donor to the ECCC.

"On behalf of the ECCC, we would like to express our sincere appreciation for the continuous and significant financial contributions and support offered by the Government of Japan. This new assistance is crucial for the ECCC to complete its mandate, without interruption in the judicial proceedings," said Acting Director of Administration Tony Kranh and Deputy Director of Administration Knut Rosandhaug in a joint statement.

has provided a measure of accountability for the crimes committed under the Khmer Rouge. It has given both victims and perpetrators a chance to be heard, and to have their testimony put on record.

The European Union is a significant supporter of the ECCC and looks forward to the completion of its work, which will make an important contribution to justice and the reconciliation process in Cambodia.

### **U.S. Embassy statement on today's judgment by the Extraordinary Chambers in the Courts of Cambodia**

The United States welcomes today's final judgment by the Extraordinary Chambers in the Courts of Cambodia (ECCC) in Case 002/01 against Nuon Chea and Khieu Samphan upholding their convictions for crimes against humanity, persecution on political grounds, and other inhumane acts related to the forced evacuation of Phnom Penh in April 1975. The court also affirmed the life sentences issued by the trial court, citing the "massive scale of the crimes."

The Khmer Rouge period was the darkest era in Cambodia's history, and today's ruling ensures that two of the regime's top leaders will be held accountable. The United States will continue to support the ECCC's mission to bring a measure of justice to the Cambodian people and to shed light on the horrific crimes of the Khmer Rouge.

## Supreme Court Chamber

On 23 November, the Supreme Court Chamber issued its appeal judgement on the respective appeals by Nuon Chea, Khieu Samphan, and the Co-Prosecutors against the case 002/01 trial judgement.

The Supreme Court Chamber upheld Nuon Chea and Khieu Samphan's convictions for crimes against humanity of murder, persecution on political grounds and other inhumane acts in relation to the evacuation of Phnom Penh immediately after the fall of the city on 17 April 1975. In relation to the second phase of population transfers that occurred between 1975 and 1977, the Chamber affirmed the Accused's conviction for the crime against humanity of other inhumane acts, and entered a conviction for the crime against humanity of murder. It reversed the convictions entered by the Trial Chamber for the crime against humanity of extermination in relation to the evacuation of Phnom Penh and the second phase of population transfers. In relation to the second phase of population transfers, the Supreme Court Chamber also reversed the Trial Chamber's convictions for the crime against humanity of persecution on political grounds. While the Supreme Court Chamber confirmed that at least 250 Lon Nol soldiers and officials had been executed at Tuol Po Chrey at the end of April 1975 and that therefore crimes against humanity had been committed, the evidence before the Trial Chamber was considered to be inadequate to reasonably substantiate a finding that, at the time of the events, there had been a policy to kill all Lon Nol soldiers. Accordingly, the Accused could not be held criminally liable for the crimes against humanity which were committed at Tuol Po Chrey, and the Supreme Court Chamber reversed the attendant convictions.

The Chamber considered that, in the light of the gravity of the crimes and the roles of the Accused, the imposition of a life sentence for each of the Accused was appropriate and therefore confirmed the sentences imposed by the Trial Chamber.

The Supreme Court Chamber dismissed as inadmissible an appeal by the Co-Prosecutor's limited to seeking declaratory relief on the applicability of the most extended form of joint criminal enterprise.

## Trial Chamber

The Trial Chamber sat for 12 days in November 2016, hearing five witnesses and five Civil Parties as well as key document presentation hearings in relation to the nature of the armed conflict segment of Case 002/02.

Among its actions in November, the Trial Chamber issued a memorandum in which it



Members of the Supreme Court Chamber, 23 November 2016. Photo: ECCC / Sok Heng Nhet

noted that due to the delivery of the Appeal Judgement in Case 002/01 on 23 November 2016, it would not hold hearings from 23 to 25 November 2016. It also granted the NUON Chea Defence request to hold a Trial Management Meeting to discuss the page length and deadline for filing of closing briefs, the scheduling of closing statements, the modalities and timing of submissions on applicable law and the impact, if any, of the Appeal Judgment in Case 002/01 on the conclusion of evidentiary proceedings in Case 002/02.

It rejected the KHIEU Samphan Defence request to hear Stephen HEDER and François PONCHAUD as experts in relation to the trial topic on the Nature of the Armed Conflict, because both experts testified in Case 002/01, and it had also selected and heard Stephen MORRIS in relation to this trial topic.

During the reporting period, the Chamber granted, in whole or in part, the parties' requests to admit documents pursuant to Internal Rule 87(4) relevant to (i) Vietnam's involvement in Cambodia and internal rebellions; (ii) the study of human skeletal remains found at Choeung Ek; (iii) the testimony of Stephen MORRIS (2-TCE-98), 2-TCW-913, 2-TCW-953 and 2-TCCP-858; (iv) relationships between leaders of the

Democratic Kampuchea; and (v) Vietnamese documents originating from Professor Goscha.

The Trial Chamber denied the Internal Rule 93 request by the NUON Chea Defence for further investigative action to obtain a number of documents on which Alexander Hinton (2-TCE-88), who testified as an expert in Case 002/02, relied in preparing his book, because the request was untimely and that the requested measures would unduly delay the fair and expeditious conduct of the proceedings.

Following a request by the KHIEU Samphan Defence, the Trial Chamber ordered the Co-Prosecutors to seek authorisation from the International Co-Investigating Judge to disclose the audio recordings of all Case 003 and 004 written records of interview (WRIs) which were admitted or sought for admission in Case 002/02. The Trial Chamber, without prejudice, rejected the KHIEU Samphan Defence request to admit all of these audio recordings upon their disclosure. The Trial Chamber denied the KHIEU Samphan Defence request to sanction the Co-Prosecutors for disclosure violations.

The Chamber responded to letters from the Dean of the Amsterdam Bar Association regarding the Trial Chamber's referral of certain conduct by Mr. Victor KOPPE.

It issued a memorandum noting steps taken



to obtain from the Vietnamese Government a full copy of the 11 April 1977 minutes of the Standing Committee and any other documents included in the Case File of the 1979 People's Revolutionary Tribunal, and the lack of any response from the Vietnamese Government in this regard.

During the month of November 2016, the Trial Chamber issued 11 public written decisions in addition to a number of oral rulings. The Trial Chamber also issued 11 confidential memoranda or decisions.

#### Pre-Trial Chamber

During the month of November 2016, the Pre-Trial Chamber notified a decision related to an application to annul non-audio recorded written records of interview which is available on the ECCC website.

The Pre-Trial Chamber also completed deliberations on two cases relating to two applications for annulment of investigative actions. The Chamber's decisions on these cases are scheduled for notification in December 2016. The Chamber further advanced preparations for deliberations on five other cases, including: one appeal concerning the nexus between crimes against humanity and armed conflict; one appeal

against decisions on disclosure of Case 004 material into Case 002; one application for annulment of disclosure decisions; one appeal against decisions on disclosure of Case 003 material into Case 002; and one appeal against a decision on a request for investigative action.

Since January 2016, the Pre-Trial Chamber has issued a total of seventeen decisions and is currently seized with seven cases. Next deliberations are expected to take place in January 2017.

#### Office of the Co-Prosecutors

In November, staff and interns of the Office of the Co-Prosecutors were engaged across all cases, with the appeal judgment in case 002/01, continued trial hearings and litigation in case 002/02 as well as the ongoing investigations and litigation in cases 003, 004 and 004/01.

**Case 002/02:** Trial hearings took place throughout the month with a recess for water festival and a break for the issuance of the case 002/01 appeal judgment. Witnesses testified in relation to the trial segments dealing with armed conflict and the role of the accused. The Co-Prosecutors presented evidence in a key documents hearing relating to the segment of the trial involving armed

conflict. Outside the courtroom, they filed a confidential submission and a confidential request before the Trial Chamber. They continued to discharge their disclosure obligations by requesting to disclose material from case 003 into case 002.

**Case 003:** Review and analysis of the evidence collected to date by the Co-Investigating Judges continued. The International Co-Prosecutor also confidentially filed a request and two responses to the Co-Investigating Judges.

**Cases 004 and 004/01:** Review and analysis of the evidence collected in the investigations against the three Charged Persons was ongoing. In case 004, the International Co-Prosecutor confidentially filed a confidential submission, two confidential responses and two confidential replies to the Co-Investigating Judges. Additionally, in case 004/01, the International Co-Prosecutor filed a confidential response to an Im Chaem request.

**Outreach:** A representative of the Co-Prosecutors participated in judicial training for Cambodian judges and prosecutors at the Royal Academy in Phnom Penh. Members of the office also spoke to students visiting from the Australian International School in Singapore about the substantive law and structure of the Court as well outlining the cases and the work of the office.

#### Office of the Co-Investigating Judges

During the month of November, the international side of the Office of the Co-Investigating Judges continued the investigations of cases 003 and 004.

No field mission took place in case 003. In case 004, three field missions were carried out, generating seven interviews. Six witnesses were interviewed at the ECCC premises in case 003 and eight in case 004. During the month of November, the legal unit has been processing investigative material, and addressing investigative requests and procedural motions. The Analysts Unit assisted and participated in field missions carried out during this period. They also assisted legal officers in analysing Khmer language documents and DK contemporaneous documents. They completed the examination of all Civil Party applications and related materials, which represents a total in excess of 2,479. Lawyers were assigned to all applicants and the need for protective measures is being assessed.

#### Defence Support Section

##### Nuon Chea Defence

The Defence requested to admit into evidence

two articles published by the Documentation Centre of Cambodia (DC-CAM) containing biographical accounts of two individuals and to summon them to testify as witnesses. It submitted that these individuals' testimonies are relevant to the heart of Nuon Chea's case as they can testify to the inner turmoil within the Communist Party of Kampuchea. They can also provide evidence as to the existence of different and equally strong factions seeking to advance treasonous rebellion intended to seize overall control from the Party and the country and further the interests of Vietnam.

The Defence believes these two individuals worked closely with Sao Phim, the former leader of the East Zone, who is believed to have been one of the instigators of the rebellion against the Central government. Apparently, they accompanied him to meetings with other key leaders, such as Ruos Nhim. Accordingly, their testimony could shed light on the relationship between these last two.

Moreover, given that another witness, who was also allegedly related to Sao Phim, was expected to testify on the East Zone, the Defence wished to test the witness' evidence with the information contained in the documents sought into evidence. Therefore, the Defence requested the two documents to be admitted prior to the appearance of the witness called to testify on the East Zone.

The Defence submitted that the admission of these proposed documents and summons of the two proposed individuals as witnesses are paramount to ascertaining the truth and are in justice's best interest.

#### **Khieu Samphan Defence**

In November the Defence filed several motions. It responded to the Co-Prosecutor's request to admit a German document. It filed a motion requesting the admission of excerpts from research documents provided by Henri Locard after his testimony which directly contradict statements he made in court. It also filed a motion seeking clarification regarding audio recordings of Case 003 and 004 documents.

The Defence filed another motion seeking clarification regarding a Trial Chamber decision admitting written statements in lieu of oral testimony based on their relevance to the acts and conduct of the accused.

On 23 November 2016, 23 months after appeals were filed by the Defence, the Supreme Court Chamber delivered its appeal judgement in Case 002/01. Two Case 002/02 trial days were cancelled in order for the parties to read the 520-pages judgement and identify its impact on the current trial.

#### **Meas Muth Defence**



*The public sit in the public gallery attending the pronouncement of Appeal Judgement in Case 002/01 against Nuon Chea and Khe*

In November, the Meas Muth Defence filed three Requests to the Office of the Co-Investigating Judges, which have been classified as confidential. The Co-Lawyers also responded to a Request filed by the International Co-Prosecutor and filed a Reply to the International Co-Prosecutor's Response to an Appeal that the Defence filed in September. The Defence also filed a request to intervene in Case 002/02 to address a particular legal issue. The Defence continues to review material on the Case File and to prepare submissions to protect its client's fair trial rights and interests.

#### **Im Chaem Defence**

In November, the Im Chaem Defence team responded to the International Co-Prosecutor's Final Submission and filed two confidential requests related to the final submissions and the Defence's response. Throughout the remaining proceedings of the pre-trial stage of Case 004/01, the Defence endeavours to safeguard Im Chaem's fair trial rights and interests.

#### **Ao An Defence**

In November, the Ao An Defence Team filed an Appeal Against the Decision on Ao An's Sixth Request for Investigative Action. In

addition, it filed a Request to Identify and Place Certain Document on the Case File. The Defence continued to review all materials on the Case File in order to participate in the investigation, and prepare other filings to safeguard Ao An's fair trial rights.

#### **Yim Tith Defence**

Yim Tith's Defence continued to analyse the contents of the Case File in order to participate in the investigation, prepare Mr. Yim Tith's defence and endeavour to protect his fair trial rights.

#### **Civil Party Lead Co-Lawyers Section**

##### **Key Legal Developments**

During the month of November, the Lead Co-Lawyers for the Civil Parties facilitated the examinations of and put questions to four witnesses and three civil parties – Sar Sarin, 2-TCCP-235, 2-TCCP-223, and Kheav Neab – in relation to their evidence about the role of the Accused in case 002/02. Additionally, two witnesses gave evidence relating to the nature of the armed conflict.

On 23 November, the Lead Co-Lawyers participated in the press conference following



u Samphan on 23 November 2016. Photo Nhet Sokheng

the rendering of the case 002/01 Appeal Judgement. They noted its significance, as the rendering of the case 002/01 Appeal Judgement marks the finalization of the eleven reparation awards judicially recognized by the Trial Chamber as providing benefits to civil parties for the harm they suffered as a result of the adjudicated crimes. Now that the conviction is final, this is the first time in international criminal law that reparations have been acknowledged by a Court and have reached the intended beneficiaries on the ground. The Lead Co-Lawyers further participated in a Q&A session with 100 civil parties who attended the pronouncement of the Judgement.

#### Outreach and training

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

They participated in the launching of Kdei Karuna's mobile exhibition, "The Voice from Ethnic Minorities: Promoting public awareness about the treatment of ethnic minorities during the Khmer Rouge Regime." It has developed as

a proposed reparation for case 002/02.

The Lead Co-Lawyers and 65 civil parties attended and participated in a civil party consultation in Battambang hosted by Youth for Peace and ZfD on the proposed reparation project "Stories from the Ground".

Representatives of the section also attended a civil party consultation on the case 002/02 proposed reparation project "Phka Sla Kraom Angkar: Forced Marriages under the Khmer Rouge Regime", hosted by Kdei Karuna, in which approximately 56 civil parties were invited to participate.

#### Victims Support Section

##### Legal representation

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 as the evidentiary hearings of Case 002/02 still continued). The lawyer team prepared some civil parties to testify before the court and participated in two meeting, one between Lead Co-Lawyer Section and Civil Party Lawyers on list of civil parties and another one with VSS's Chief on situation of participation of civil parties in the

court proceeding.

The team assisted VSS in identifying civil parties to participate in the appeal announcement event and prepared them to be interviewed by media.

#### Processing and analysis

During the month, the team received one letter request for continuing civil party action for the deceased civil party in case 002 and filed 39 pieces of supplementary information indicating alleged criminal acts to the Office of Co-Investigating Judges.

#### Reparations and non-judicial measures

The Reparation & Non-Judicial Measure Team 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:

- A meeting with DC-Cam to discuss about a proposed reparation project, "The Anlong Veng Peace Center: Revitalizing the Anlong Veng History for Reconciliation", at Sleuk Rith Institute Arts Gallery (SRI).

- Stakeholders Meeting on Civil Party Participation and Reparations under the ECCC's framework with GIZ at GIZ office.

- A meeting with CPLCLS's officers on 7 November to discuss updated proposed reparation projects to civil parties in case 002/02.

- A meeting with a representative from The Asia Foundation (TAF) to discuss a potential project for the benefits of survivors of the Khmer Rouge regime.

In addition, Gender-Based Violence Project of the section coordinated and implemented its project through the eighth-radio live show, which was conducted in cooperation with the Women's Media Center on the topic "Victims and the Value of Testimony".

In total 97 Civil Parties in Case 002 were invited to participate in the ECCC's appeal verdict pronouncement of Case 002/01 against Nuon Chea and Khieu Samphan by the Supreme Court Chamber. On-site psychological was also provided in cooperation with TPO and a legal briefing by the Lead Co-lawyer during their participation at the ECCC. In the afternoon of the pronouncement day, a tour visit to Tuol Sleng was also organized for civil parties where they could see a stupa - a part of a reparation program for victims where they can pay their respect to the dead.

#### Outreach

During the month, Outreach Team invited



66 Civil Parties (CPs) including 35 female CPs from many provinces 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 rest in the public gallery.



## Decisions/Orders

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

### Trial Chamber

**3 November 2016** : Decision on NUON Chea Defence Internal Rule 87(4) Requests E434 and E435 <E434/2>

**3 November 2016** : Closing Briefs, SCC judgement in Case 002/01 and TMM <E449>

**3 November 2016** : Decision on Reiterated Request of KHIEU Samphan to Hear Stephen HEDER (2-TCE-87) and Francois PON-CHAUD (2-TCE-99) (E408/6) <E408/6/2>

**4 November 2016** : Decision on the Admission into Evidence of the Choeung Ek Study Documents <E404/9>

**8 November 2016** : Decision on NUON Chea Defence Internal Rules 87(4) and 93 Request (E445/1) <E445/2>

**10 November 2016** : Decision on NUON Chea's Request for Investigative Action in Relation to Alexander Hinton (2-TCE-88) <E405/2>

**17 November 2016** : Decision on KHIEU Samphan Defence Request for Disclosure of

Audio Recordings of Witness Statements of from Cases 003 and 004 <E441/2>

**22 November 2016** : Decision on the Co-Prosecutors' Rule 87(4) Request to Admit One Document (E437) <E437/2>

**25 November 2016** : Letter to Dean of Amsterdam Bar Association: Response to your letters dated 1 September and 18 October 2016 <E378/1/2>

**25 November 2016**: Decision on Requests Regarding Copies of Vietnamese Documents Originating From Professor Christopher Goscha <E327/4/7>

**28 November 2016**: Request to the Socialist Republic of Vietnam for 11 April 1977 Standing Committee Meeting Minutes and Case File of 1979 People's Revolutionary Tribunal in Phnom Penh <E327>

### Pre Trial Chamber

PTC04/31

**30 November 2016**: The Pre-Trial Chamber issued a decision unanimously dismissing an application to annul non-audio recorded written records of interview in Case 004.

# TC heard evidence on Armed conflict

**Disclaimer:** The following summaries of testimonies have been prepared by the Public Affairs Section for the purpose of providing the public with information about the on-going proceedings, and it is not an official document. The information contained in the summaries is based on information provided by a witness or civil party during their respective testimonies. As the Trial Chamber has not yet made any factual findings regarding the allegations in Case 002/02, nor made any determination about the credibility or veracity of the testimonies, the information contained in the summaries cannot be regarded as established facts.



**2-TCW-1065 – 1-2 November**

The witness joined the revolution as a soldier in 1970 because the late King Sihanouk told his people to do so. In 1971 he attended medical training and became a medic on the district level, becoming chief of the hospital in 1976. In late 1977 all the commanders in his division – the witness included – were called to a meeting, which he did not attend because he was stationed on the battlefield. Everyone at the meeting was later arrested. After this the witness realized Pol Pot committed treason, because he sent in troops to arrest these commanders. He began organizing resistance against Pol Pot, coordinating with Vietnam to do so. He felt he was forced to hide in the jungle because Pol Pot was killing people at random. According to the witness, the Cambodian-Vietnamese conflict originally started in 1973 because the superpowers supporting each country were not sending equal amounts of materials. He testified that there were strategy meetings held in Ho Chi Minh City prior to the invasion. The witness was related to Sao Phim and told him about Pol Pot's treasonous actions. After the latter's overthrow the witness was placed in a prison by the Vietnamese. The witness testified on a variety of names and topics relating to the Vietnamese intervention in Cambodia and internal purges.



**Sar Sarin – 8 November**

The Civil Party was born in 1957. He currently resides in Kampong Cham province. He testified that Khieu Samphan often represented the country to foreign diplomats who visited, such as the president of Burma. He testified that Nuon Chea stated there should be only one citizenship for Khmer people, and not citizenships like Cham and others. He also testified that Khieu Samphan said Cambodia needed to double its population in fifteen years, and therefore needed to organize collective weddings that would be organized exclusively by the Party – no other weddings would be permitted.

some people tried to find food in the forest. After this they were all rounded up and arrested for 14 days, during which time they were fed just one or two pieces of potato per meal. They were then taken away to be killed. The witness was hit several times over the head but managed to survive, as did one other named Khan. They untied each other and managed to live for over a month in a cave near their worksite which had been abandoned. The witness had to drink his own urine to survive.



**2-TCCP-235 – 10 November**

The Civil Party was a monk in Kampot province who was forcibly defrocked by the militia group of "Revolutionary Angkar" in 1971, when he was 15. He was part of the division that seized Phnom Penh. He described women greeting them with flowers upon entering the city, but said some soldiers beat up those women and threw the flowers away. He and the other soldiers were told that Lon Nol soldiers would be killed. He had friends and siblings who were Lon Nol soldiers. He found them and told them to take off their uniforms and lie if they were asked about who they were. He was in the navy but was later arrested and put to hard labour because they thought he was an enemy spy. He remembers seeing Nuon Chea and Ta Mok together while filming a video about fighting between China and Japan.



**2-TCW-913 – 10 November**

The witness was a monk until 17 April 1975, when all 19 monks in his pagoda were forcibly defrocked. He was transferred to a rice cooperative for a few months. He was part of the group referred to as "Monkey Forces" because they were newcomers. He was transferred to another cooperative, where he tasted food for guests to make sure it wasn't poisoned. Later he was moved to the East Zone. There, he stated, he was overworked and not given enough food, so

**2-TCCP-223 – 21 November**

The Civil Party live in Pursat province prior to the revolution. After 1975 he was a messenger at Battambang University alongside Horn. He helped to receive visitors around when they came for study sessions. In 1977 Nuon Chea said his father was a traitor and therefore the CP was brought into Phnom Penh. Both his father and uncle were arrested and sent to S-21. He worked with Khan who worked with Nuon Chea. Khan said Nuon Chea gave the order to demolish all pagodas, because it was unnecessary to practice any religious beliefs. All of his father's relatives were killed. To the CP's knowledge, they purged



people in the Northwest Zone and replaced them with cadres from the Southwest Zone, around 500-600 according to him. In his closing statement, he explained how difficult his situation is now – “lower than animals” – and how hard it was to be separated from his family, no education, no land or means of survival.



#### Tuch Sithan – 21 November

The witness was born on 2 January 1965 and currently resides in Paris. She worked in the Ministry of Social Affairs under Ieng Tirith. She distributed medicine because she could read French. When she worked at the ministry, several of her superiors under Ieng Tirith disappeared and did not come back. At meetings they were told they had to smash the enemy. The witness’s marriage took place in September 1976 at the Ministry. Three couples were married at the same time. Bong Sou acted as the parents during the ceremony. She did not know her husband well before they were instructed to get married. She asked to confirm that he was not married in France. She had to force herself to marry him because in fact she was in love with his secretary, who she knew better and thought was better looking. None of her family attended the marriage. She became pregnant within six months. Her husband disappeared three months later. She saw Nuon Chea speak at a meeting, and met with Khieu Samphan.

#### Beit Boeun – 28 November

The witness was born in 1950 in Kandal province, and joined the revolution in 1971. She was as-



signed to various tasks before 1975 such as helping people grow rice and digging tree roots to produce medicine. Her unit arrived in Phnom Penh after the people had been evacuated. She was based at the stadium where she sewed clothes. In 1977 she was assigned to the Ministry of Commerce, in charge of purchasing. Her husband was arrested because he was a driver of Ta Hong; she never saw him again. She attended a study session where Pol Pot, Nuon Chea and Khieu Samphan spoke. They were encouraged to smash enemies, even if the enemies were their parents. She became pregnant but after her husband was arrested, she was forced to abort the baby. She was sent to Kampong Chhnang Airfield. Everyone there was very skinny and no children. She said they were fed poorly



#### Seng Lytheng – 29 November

The witness was born on 17 July 1946 in Kampong Thom province. He is Pol Pot’s nephew – his father is Pol Pot’s older brother. The witness said he was never a party member, but he was in the Vietnamese army in 1970 and again in 1973 for three years. He was mainly stationed in Kampong Thom and Siem Reap to protect Angkor Wat. He was later based in Kampong Cham, where the leaders there were Pol Pot, Nuon Chea, Ieng Sary and Khieu Samphan. He confirmed that Pol Pot, Nuon Chea and Khieu Samphan ate and worked together on a daily basis. He was also part of a mobile unit and part of the Ministry of Foreign Affairs, in charge of receiving guests. He testified on the identities of several colleagues from that time. During this time he was married, but it was to a woman of his choice and they were the only couple married at that time. He worked as a guard for Pol Pot. He was trained in photography in China.



#### Kheav Neab – 29 November

The Civil Party was born in 1952. She married her first husband, who worked in the cooperative, in 1973 and had two children with him. In 1974 he was sent to the battlefield and afterwards worked in Central Market in Phnom Penh. He wasn’t a cadre but he was a group leader. She was sent to cook rice for evacuees, which Khieu Samphan distributed. Her husband disappeared in 1978 when he was 25 years old, and she never saw him again. She had to leave Phnom Penh while she was pregnant when her husband disappeared; she gave birth to her baby when she returned in 1979. The CP also had several uncles who disappeared too. She saw Khieu Samphan when he was handing out blue-white karmas to evacuees from the east. Eventually she was allowed to cook rice at the place where her husband was being held, so her son was able to see him although she wasn’t.



#### 2-TCCP-1063 – 30 November

The Civil Party is from Svay Rieng province. He was a Lon Nol soldier and as such was taken away supposedly for a study session but in reality he was to be killed. He was given two tins of rice to feed ten people after a hard day of work digging canals. He said the Khmer Rouge evicted them from their homelands. He met Khieu Samphan and Svay Ampil Market, where the latter distributed rice and clothes for the trip to the southwest zone. The CP quoted Khieu Samphan as saying the revolution would not allow for different classes. Many of his family members were killed.



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

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

The screenshot shows the official website of the Extraordinary Chambers in the Courts of Cambodia. The header features the UN logo, the ECCC crest, and links for English and Français. Below the header are navigation menus for ABOUT ECCC, ORGANS OF ECCC, CASELOAD, LEGAL DOCUMENTS, and MEDIA CENTER. A large grid of small portraits of individuals is displayed under the heading 'FEATURED CONTENT' with the sub-section 'Case 002/01 day by day'. To the right, there is a section titled 'ECCC EXPLAINED IN 7 MINUTES' featuring a video player with the Cambodian flag. At the bottom left, there is a section for 'INDICTED PERSONS' showing portraits of five individuals: IENG Sary, IENG Thirith, KIENG Chum Ek, KHIEU Samphan, and NUON Chea.

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## The Court Report

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