



The Court Report

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



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Office of the Co-Investigating Judges dismiss charges against Im Chaem in Case 004/01

On 22 February 2017, the Co-Investigating Judges issued a joint closing order in the proceedings against Im Chaem in Case 004/1. They dismissed the case, because according to their evaluation of the evidence collected during the investigation, Im Chaem is not subject to the ECCC's personal jurisdiction, which means she was neither a senior leader nor otherwise one of the most responsible officials of the Khmer Rouge regime. Due to the current logistical and budgetary restrictions which impact on the time needed for the production of the final draft of both the English and Khmer versions... **Con'd on page 2**

News Updates:

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Judicial Updates

During the month of January, the Trial Chamber concluded the evidentiary hearings in Case 002/02, the Nuon Chea Defence team participated in the final weeks of evidentiary hearings in Case 002/02 and investigations of case 004 continued. For more judicial updates, see pages 4-7

Outreach Activities



Photo: ECCC

Public Affairs has been busy with outreach activities throughout the country, read more on page 9

On the Blog

We take readers to Kampong Cham for insight into a Forum on the developments of the court proceedings and reparations in Case 002/02, in which six experts, briefed the audience. Read more on page 8



Extraordinary Chambers in the Courts of Cambodia

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and bearing in mind the right of the charged person to have the outcome of the proceedings against her determined as soon as possible... the Co-Investigating Judges decided to issue the dispositive part of the closing order now, together with a summary of the reasons, with a separate document containing the full reasons to be filed in due course. The dismissal also means that all civil party applications related to Im Chaem had to be rejected; the Co-Investigating Judges made such an order on the same date. Due to the nature of the closing order as a dismissal, the reasons for this decision, as far as they relate to the substance of the charges themselves, and the decision on the civil party applications shall remain confidential unless the dismissal is overturned on appeal and a trial ordered by the Pre-Trial Chamber. The Co-Investigating Judges will, however, produce and disseminate a public version of their main legal findings surrounding the issue of personal jurisdiction upon filing of the full reasons.

OCIJ to conclude the investigation in Case 003 against Meas Muth

PRESS RELEASE by the Office of the Co-Investigating Judges Judicial investigation against Meas Muth concluded
10 January 2017

The International Co-Investigating Judge today notified all parties in Case 003 that he considers the judicial investigation in Case 003 to be concluded. The parties have been granted 30 days to request further investigative action. The Judge also issued a separate decision reducing the scope of the judicial investigation in relation to Meas Muth pursuant to Internal Rule 66 bis. Today's notification marks the conclusion of over eight years of judicial investigation into Meas Muth for crimes alleged to have been committed between 17 April 1975 and 6 January 1979. This investigation was initiated following receipt of the Second Introductory Submission filed by



Photo: ECCC

the International Co-Prosecutor on 7 September 2009. The scope of Case 003 was subsequently expanded by a Supplementary Submission filed by the International Co-Prosecutor on 31 October 2014. The judicial investigation against a previous joint suspect, Sou Met, was terminated upon his demise on 2 June 2015. The National Co-Investigating Judge wishes to state for the record that the National Co-Investigating Judge and former International Co-Investigating Judge Siegfried Blunk issued a notice of conclusion of the investigation in Case 003 on 29 April 2011. The National Co-Investigating Judge issued a Forwarding Order in Case 003 on 7 February 2013.

TC concluded the hearing in Case 002/02 and closing statement in Case 002/02 set up on 5 June 2017

PRESS RELEASE by Trial Chamber Concludes Evidentiary Hearings In Case 002/02, Schedules Closing Briefs And Closing Arguments, 11 January 2017

On Wednesday, 11 January 2017, the Trial Chamber concluded the evidentiary hearings in Case 002/02, involving allegations of crimes against humanity, genocide, and Grave Breaches of the Geneva Conventions against the Accused NUON Chea and KH-IEU Samphan. The Chamber commenced evidentiary proceedings on 8 January 2015 and heard evidence on the topics of the Tram Kok Cooperatives (including Kraing Ta Chan Security Centre and the treatment of Buddhists), 1st January Dam Worksite, the Kampong Chhnang Airport Construction site, Trapeang Thma Dam worksite, the treatment of the Cham and the Vietnamese, the Au Kanseng, Phnom Kraol and S-21 security centres and internal purges, the regulation of marriage, nature of the armed conflict and, finally, the roles of the accused. The Chamber sat for 274 Hearing



Photo: ECCC

Days in Case 002/02 and heard the testimony of 114 Witnesses, 63 Civil Parties and 8 Experts. In addition, the Chamber provided the parties an opportunity to present key documentary evidence related to each trial topic and heard the initial specification of the Civil Party Lead Co-Lawyers' requests for reparations. Throughout the trial in Case 002/02, hearings were attended by a total of 77,604 persons in the ECCC public gallery. The Chamber set the deadline for closing briefs on 24 April 2017. The Lead Co-Lawyers Final Claim for Reparations is due on 22 May 2017. Closing Statements will be held starting 5 June 2017 with the Lead Co-Lawyers having 1 day to present their submissions; the Co-Prosecutors 3 days

and each Defence team 2 days. One day has been allocated for Rebuttal and 4 hours for the Final Statements of the Accused, should they choose to exercise that right. Case 002/01 against the same Accused, encompassing charges of crimes against humanity concerning the forced evacuation of Phnom Penh, other movements of the population and killings at Tuol Po Chrey, concluded with the delivery of a final Appeal Judgement in November 2016. The Trial Chamber will issue a decision on the remaining charges in Case 002 in due course. The Trial Chamber adjourned the hearing until the Closing Statements on 5 June 2017. A judgement in Case 002/02 will follow the Closing Statements in due course.

Trial Chamber reduces scope in Case 002

*Press Release Trial Chamber Reduces Scope of Case 002
27 February 2017*

On 27 February 2017, the Trial Chamber reduced the scope of Case 002 against KHIEU Samphan and NUON Chea by excluding all facts set out in the Closing Order which were not included in Case 002/01 or Case 002/02. The Trial Chamber terminated the proceedings with respect to these facts pursuant to Internal Rule 89 quater. The Trial Chamber first ordered that proceedings in Case 002 be severed into two or more cases on 22 September 2011. The Trial Chamber's subsequent decision severing Case 002/01 was confirmed by the Supreme Court Chamber on 23 July 2013. The Trial Chamber's additional decision severing Case 002/02 was confirmed by the Supreme Court Chamber on 29 July 2014.



In the decision on 29 July 2014, the Supreme Court Chamber declared a provisional stay of the charges outside the scope of Cases 002/01 and 002/02, pending appropriate disposal by the Trial Chamber. The charges against KHIEU Samphan and NUON Chea relevant to the facts within the scope of Case 002/01 have reached finality with the Supreme Court Judgement of 23 November 2016. In addition, the evidentiary hearings in Case 002/02 concluded on 11 January 2017. On 11 January 2017, the Trial Chamber heard oral submissions



Photos: ECCC

from the Parties to Case 002 on the status of facts which were not included in Case 002/01 or Case 002/02. The Trial Chamber found that the facts adjudicated or to be adjudicated in Cases 002/01 and 002/02 were representative of the scope of the Closing Order and reasonably reflected the totality of the alleged criminal acts and individual culpability of the Accused. The Trial Chamber concluded that conducting a further trial in Case 002 would not be in the interests of a fair, meaningful and expeditious procedure and

thus terminated the proceedings concerning the facts set out in the Closing Order in Case 002 which were not included in Case 002/01 or Case 002/02. Following this decision there will be no further proceedings in Case 002 with respect to Srae Ambel and Prey Sar worksites; Sang Koh Kyang, Prey Damrei Srot, Wat Kirirum, North Zone, Wat Tlork, and Kok Kduoch security centres; District 12 (West Zone), Tuol Po Chrey (the Chamber notes that facts related to this location have been partially adjudicated in Case 002/01), and Steung Tauch Execution Sites; Movement of the Population from the East Zone (Phase 3); Treatment of Buddhists (nation-wide); Treatment of the Cham at Kroch Chhmar Security Centre; and Crimes committed by the Revolutionary Army of Kampuchea on Vietnamese territory. However, evidence relating to the facts excluded may be relied upon to the extent it is relevant to the facts which remain in Case 002/02.

Notification of the interpretation of 'attack against the civilian population' in the context of crimes against humanity with regard to a state's or regime's own armed forces

PRESS RELEASE by the Office of the Co-Investigating Judges Notification of the Interpretation of 'Attack Against the Civilian Population' in the Context of Crimes Against Humanity with Regard to a State's or Regime's Own Armed Forces - 8 February 2017

International Co-Investigating Judge issues ruling on whether an attack against a state's or regime's own armed forces could be considered an attack against a civilian population under the law relating to crimes against humanity applicable between 1975 and 1979. In a decision of 7 February 2017, the International Co-Investigating Judge notified the parties in cases 003 and 004 of his view that in the context of the law on crimes against humanity as it stood between 1975 and 1979, an attack by a state or a regime against its own armed forces could amount to an attack against a civilian population under Article 5 of the ECCC Law, unless the armed forces were allied with or otherwise providing militarily relevant support to an opposing side in an armed conflict. The decision follows a request for submissions by the parties and amici curiae in cases 003 and 004 of 19 April 2016 (<https://www.eccc.gov.kh/en/articles/international-co-investigating-judge-calls-submission-amicus-curiae-briefs>). The ruling is the first time that a court has addressed this legal issue in depth.

ECCC budget in 2016-2017 approved

1 February 2017

The revised budget for the Extraordinary Chambers in the Courts of Cambodia (ECCC) for the period 2016-2017 has been endorsed by the Group of Interested States, and is now available on the ECCC website. The revised budget for the year 2017 totals US\$30.13 million, of which US\$23.76 million is for the international component and US\$6.37 million is for the national component. The budget for 2016 was revised on the basis of estimated expenditures of US\$30.61 million, of which US\$24.06 million were estimated for the international component and US\$6.64 million were estimated for the national component. The revision increases the total budget for the period 2016-2017 by US\$1.94 million for both national and international components. "We appreciate the



Photo: ECCC

endorsement of the new budget, and strongly appeal to the donor community to continue their necessary financial contribution for the ECCC to fulfill its mandate", said Acting Director of the Office of Administration H.E. Kranh Tony and Deputy Director Knut Rosandhaug in a joint statement.

judicial updates: January

Supreme Court Chamber

In January, the Supreme Court Chamber disposed of an immediate appeal filed by the Civil Party Lead Co-Lawyers against a Trial Chamber's decision of 30 August 2016. The impugned decision confirmed that the allegations of rape committed outside the context of forced marriage are not encompassed within the scope of the trial. The Civil Parties contended that their appeal was admissible. As regards the merits, they argued that the Trial Chamber was seized of those factual allegations, since the Co-Investigating Judges, in the appellants' view, did not dismiss such allegations in the Closing Order. KHIEU Samphân and the Co-Prosecutors opposed the appeal.

The Supreme Court Chamber dismissed the appeal as inadmissible pursuant to Internal Rule 107(1). Notably, the Supreme Court Chamber found that there was merit in the Co-Prosecutors' averment that the appeal was untimely, since it was lodged against a Trial Chamber's decision that disposed of substantially the same issues that had been addressed in another Trial Chamber's decision issued in June 2015. In both the June 2015 decision and the impugned decision, the Trial Chamber affirmed its constant position that granting the Civil Parties' request would be tantamount to adding new facts or charges to the indictment, thus occasioning a contravention of Internal Rule 98(2). The Supreme Court Chamber concluded that if the Appellants intended to challenge on appeal the findings of the Trial Chamber concerning the scope of the trial in relation to rape outside the context of forced marriage, they could have challenged the decision issued by the Trial Chamber two years prior.

Trial Chamber

During the month of January 2017, the Trial Chamber concluded the evidentiary hearings in Case 002/02. The Trial Chamber sat for five days, hearing one witness and concluding the testimony of one witness who commenced testifying in December 2016. During this period the Trial Chamber also heard the key document presentation and responses with respect to the Role of

the Accused trial topic.

The Trial Chamber issued six public written decisions or memoranda in addition to delivering one oral ruling. The Trial Chamber also issued five confidential memoranda, letters or decisions.

On 11 January 2017, the Parties made oral submissions on the termination of the remaining charges in Case 002 and the Trial Chamber noted that it would issue a decision in due course. On the same day the Trial Chamber heard oral submissions from the Parties on proposed cuts by the Administration to the budget of both Defence teams and the impact this would have on their preparations for the filing of final briefs on 24 April 2017 and the presentation of closing arguments commencing on 5 June 2017. On 16 January 2017, the Trial Chamber issued a memorandum noting its concern about the potential impact of these budget cuts on the smooth conclusion of proceedings in Case 002/02. The Trial Chamber supported the postponement of budget cuts to the Defence teams until at least the end of May 2017 and preferably until the end of the closing arguments in June 2017.

On 11 January 2017, the Trial Chamber declared that the evidentiary hearings in Case 002/02 were closed and adjourned proceedings until the closing arguments on 5 June 2017. The Trial Chamber noted that it could re-open the proceedings to hear the testimony of Professor Walter HEYNOWSKI if a video-link could be arranged from Berlin no later than 31 January 2017. However, on 18 January 2017, the Trial Chamber notified the parties that due to technical and procedural difficulties it was impossible to conduct a video-link hearing by the 31 January 2017 deadline and therefore the Chamber had decided that proceedings would not be re-opened to hear Professor HEYNOWSKI.

Pre-Trial Chamber

During the year 2016, the Pre-Trial Chamber issued a total of nineteen decisions on appeals and motions relating to investigative proceedings in Cases 003 and 004. At the end of the year, the Pre-Trial Chamber remained seized with five cases, on which it advanced preparations

for deliberations during the month of January 2017: one appeal concerning the nexus between crimes against humanity and armed conflict (PTC 03/30); one appeal against decisions on disclosure of Case 004 material into Case 002 (PTC 04/29); one application for annulment of disclosure decisions (PTC 04/30); one appeal against decisions on disclosure of Case 003 material into Case 002 (PTC 03/31); and one appeal against a decision on a request for investigative action (PTC 04/33).

The Pre-Trial Chamber was further seized during the period under consideration, following the notice of conclusion of the investigation and the severance and creation of Case File 004/2 on 16 December 2016, with three new appeals against decisions on requests for investigative action (PTC 04/2/34, PTC 04/2/35 and PTC 04/2/36) and with one application for annulment of written records of interviews (PTC 04/2/37).

The Pre-Trial Chamber is currently seized with nine cases. Next deliberations are expected to take place in February 2017.

Office of the Co-Investigating Judges

During the month of January, the international side of the Office of the Co-Investigating Judges ("OICIJ") continued the investigations of case 004.

In case 004, two field missions were carried out, generating eight interviews. Five interviews were carried out on ECCC premises.

During the month of January, the legal unit has been processing investigative material, and addressing investigative requests and procedural motions. The Analysts Unit assisted and participated in the field mission. They also assisted legal officers in analysing Khmer language documents and DK contemporaneous documents.

On 10 January, the Co-Investigating Judges delivered a notice of conclusion of the judicial investigation against Meas Muth in Case File 003.

On the same day, the International Co-Investigating Judge further issued a decision reducing the scope of the investigation

under Rule 66bis.

Defence

Nuon Chea

In January 2017, the Nuon Chea Defence team participated in the final weeks of evidentiary hearings in Case 002/02. The Nuon Chea Defence, along with other parties, gave submissions to the Trial Chamber on the status of the remaining charges within Case 002. The Nuon Chea Defence team argued that there is no legal necessity for a third trial to proceed. Also, the Nuon Chea Defence submitted that the crime site of Krouch Chhmar should be included in the scope if a third trial proceeds. Furthermore, the Nuon Chea Defence argued that a new panel of judges should be appointed to adjudicate a third trial to avoid the risk of bias. After the end of evidentiary hearings, the Nuon Chea Defence has been preparing the Closing Brief.

Khieu Samphân

In January 2017, the Khieu Samphân Defence team remained fully engaged in preparing and attending the hearings in Case 002/02.

On 11 January, the final day of evidentiary hearings, the Trial Chamber invited the parties to present oral submissions on the remaining charges in Case 002. The Defence submitted that the trial Judges should exercise their inherent power to terminate proceedings on the remaining charges because the violations of Mr. Khieu Samphân's rights to legal certainty and to be tried within a reasonable time are such that no fair trial can be held.

Thereafter, the Defence started to prepare its Closing Brief in Case 002/02.

Meas Muth

In January, the Meas Muth Defence filed three motions with the OCIJ, which have all been classified as confidential. The Defence continues to review material on the case file and to prepare submissions to protect Mr. Meas Muth's fair trial rights and interests.

Im Chaem

In January, the Im Chaem Defence team's request related to the public statement issued by the Co-Prosecutors in regard to their final submissions was reclassified as public. The Defence is currently preparing

various requests for reclassification of filings and endeavours to safeguard Ms. IM Chaem's fair trial rights and interests throughout the remaining proceedings of the pre-trial stage of Case 004/01.

Ao An

In January, the Ao An Defence filed three appeals against the International Co-Investigating Judge's decisions on Ao An's seventh, tenth and twelfth requests for investigative action. In addition, the Defence also filed the Thirteenth Request for Investigative Action. Finally, the Defence continues to review all materials on the Case File and prepare other filings to safeguard Mr. Ao An's fair trial rights.

Yim Tith

The Yim Tith 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.

Office of the Co-Prosecutors

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

Case 002/02 After two years of trial, the presentation of evidence came to an end mid-way through the month. The Chamber heard the evidence of an expert in relation to the exhumation, forensic analysis and preservation of bodily remains at crimes sites including Cheong Ek and Kraing Ta Chan. An OCIJ analyst also testified regarding the review and compilation of lists of prisoners detained and executed at S-21. The final hearings included the Co-Prosecutors presenting evidence in response to the Defence submissions in a key documents presentation relating to the role of the accused. Additionally, the Co-Prosecutors made oral submissions in relation to the remaining charges outstanding against the Accused. The Co-Prosecutors reiterated its position that all charges have been covered between cases 002/01 and 002/02 and that the crimes tried have been representative of the Khmer Rouge's nationwide policies. The Co-Prosecutors further noted that it was impossible to cover every crime given the sheer scale of the crimes committed by the Khmer Rouge which resulted in millions of

victims. Outside the courtroom, the Co-Prosecutors filed two confidential requests before the Trial Chamber and continued to discharge their disclosure obligations by requesting to disclose material from case 004 into case 002.

Case 003 Review and analysis of the evidence collected to date by the Co-Investigating Judges continued.

Cases 004 and 004/02 Review and analysis of the evidence collected in the investigations against the Charged Persons was ongoing. In case 004, the International Co-Prosecutor confidentially filed three requests to the Co-Investigating Judges.

Outreach Representatives of the Co-Prosecutors spoke to groups of students visiting from a number of educational institutions throughout the month, including: the University of Pennsylvania and Ohio Law School from the United States; Notre Dame Law School from Singapore; New York University's Abu Dhabi campus; and Pannasastra University and the International School from Phnom Penh. The topics discussed included the substantive law and structure of the Court as well the ongoing work of the office. A representative also spoke to representatives from the Heinrich Boell Stiftung foundation about the progress and impact of the court in Cambodia.

Civil Parties Co-Lawyers

Key Legal Developments

During the month of January, the Lead Co-Lawyers for the Civil Parties facilitated the examinations of and put questions to one witness who gave evidence relating to S-21 Security Center and one expert who continued his testimony on security centres. On 11 January, the Lead Co-Lawyers participated in a trial management meeting discussing their position with respect to the factual allegations and charges that the Trial Chamber is seized of, but which have not been heard in case 002/01 or case 002/02.

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 to develop and implement proposed judicial reparation projects for case 002/02.

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judicial updates: February

Supreme Court Chamber

In February, the Supreme Court Chamber commenced preliminary research focused on the legal issues raised in the Closing Order of Case 002/02, which were not covered in the Case 002/01 appeal judgment, such as those surrounding the charges of genocide, enslavement and forced marriage. The purpose of the pre-appeal research is to bridge the time for delivery of judgment in the Case 002/02 appeal so as to meet the time line indicated in the ECCC completion plan for the Supreme Court Chamber.

Trial Chamber

Following the end of evidentiary hearings in Case 002/02 in January 2017, there were no hearings in February 2017. The final briefs in Case 002/02 are due to be filed by the Parties on 24 April 2017 and the presentation of closing arguments is scheduled to commence on 5 June 2017.

The Trial Chamber issued three public written decisions or memoranda in February 2017. The Chamber was also engaged in the evaluation of evidence in preparation for the drafting of the Judgement in Case 002/02.

On 27 February 2017, the Trial Chamber issued a decision reducing the scope of Case 002 against KHIEU Samphan and NUON Chea. The Chamber excluded all facts set out in the Closing Order which were not included in Case 002/01 or Case 002/02. The Trial Chamber terminated the proceedings with respect to these facts pursuant to Internal Rule 89 quater.

On 11 January 2017, the Trial Chamber had heard oral submissions from the Parties on the status of facts which were not included in Case 002/01 or Case 002/02. On 27 February 2017, the Trial Chamber found that the facts adjudicated or to be adjudicated in Cases 002/01 and 002/02 were representative of the scope of the Closing Order and reasonably reflected the totality of the alleged criminal acts and individual culpability of the Accused. The Trial Chamber concluded that conducting a further trial in Case 002 would not be in the interests of a fair, meaningful and expeditious procedure. Consequently,

there will be no further proceedings in Case 002 after the delivery of the final judgement in Case 002/02.

Pre-Trial Chamber

During the month of February 2017, the Pre-Trial Chamber notified three decisions related to two appeals and one application for annulment of disclosure decisions (PTC 04/29, PTC 04/30 and PTC 03/31), which are available on the ECCC website.

The Chamber advanced preparations for deliberations on six other cases, including: one appeal concerning the nexus between crimes against humanity and armed conflict (PTC 03/30); one appeal against a decision on a request for investigative action (PTC 04/33); three appeals against decisions on requests for investigative action (PTC 04/2/34, PTC 04/2/35 and PTC 04/2/36); and one application for annulment of written records of interviews (PTC 04/2/37).

The Pre-Trial Chamber was further seised during the period under consideration with two new applications for annulment of investigative action (PTC 04/38 and PTC 04/39) and has yet to be seised with one upcoming appeal regarding a notification of the interpretation of 'attack against the civilian population' in the context of crimes against humanity, against which a notice of appeal was filed on 16 February 2017

Since January 2017, the Pre-Trial Chamber has issued a total of three decisions and is currently seised with eight cases. Next deliberations are expected to take place in March 2017.

Office of the Co-Investigating Judges

During the month of February, the international side of the Office of the Co-Investigating Judges ("OICIJ") continued the investigations of case 004.

In case 004, four field missions were carried out, generating 11 interviews. Seven interviews were carried out on ECCC premises.

During the month of February, the legal unit has been processing investigative material,

and addressing investigative requests and procedural motions. The Analysts Unit assisted and participated in the field mission. They also assisted legal officers in analysing Khmer language documents and DK contemporaneous documents.

On 22 February, the Co-Investigating Judges delivered the disposition of the Closing Order, dismissing Case 004/1, with reasons to follow.

On the same day, the Co-Investigating Judges ordered the rejection of all Civil Party applications in that case.

Defence

Nuon Chea

Throughout February 2017, the Nuon Chea Defence Team has been preparing Nuon Chea's 550-page closing brief in Case 002/02, which due on 24 April 2017. The Defence Team's preparations include drafting, extensive case file review, and legal and factual research.

Khieu Samphân

In February 2017, the KHIEU Samphân Defence Team was fully engaged in preparing its final brief in Case 002/02.

Meas Muth

In February 2017, the Meas Muth Defence filed one Request to the Co-Investigating Judges and two Responses to Requests filed by the International Co-Prosecutor, which have all been classified as confidential. The Defence continues to review material on the Case File and to prepare submissions to protect Mr. Meas Muth's fair trial rights and interests.

Im Chaem

On 22 February, the IM Chaem Defence Team welcomed the decision of the Co-Investigating Judges to dismiss all charges against Ms. IM Chaem and as a consequence, to reject all civil party applications.

The Defence is currently preparing for a potential response to an appeal against the Closing Order and endeavours to safeguard Ms. IM Chaem's fair trial rights and interests throughout the remaining proceedings of

the pre-trial stage of Case 004/1.

Ao An

In February, the AO An Defence filed an Application to Annul Written Records of Interview of Three Investigators to the Pre-Trial Chamber as well as a Reply to the International Co-Prosecutor's Response to AO An's Application of the same. The Defence also filed a Notice of Appeal against Notification on the Interpretation of 'Attack Against the Civilian Population' in the Context of Crimes Against Humanity With Regard to a State's or Regime's Own Armed Forces. Finally, the Defence continues to review all materials on the Case File and prepare other filings to safeguard Mr. AO An's fair trial rights and interests.

Yim Tith

The Yim Tith 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.

Office of the Co-Prosecutors

In February, staff and interns of the Office of the Co-Prosecutors were engaged across all cases, with final trial brief preparation in case 002/02 as well as evidence analysis and litigation in the ongoing investigations in cases 003, 004 and 004/02.

Case 002/02 The Co-Prosecutors were reviewing the evidence admitted before the Chamber in preparation of their final trial brief. The scope of the trial and the voluminous evidence on the case file makes it one of the largest criminal trials in history. Additionally, the Co-Prosecutors filed a request to lift redactions and pseudonyms from evidence in case 002/02 which originated in the investigations in cases 003 and 004. The protection measures in question were adopted in order to guard the confidential nature of investigations. The Co-Prosecutors made their request to lift the measures, except where cogent reasons exist to maintain them, on the basis that the investigations are either closed or at an advanced stage. Given the public interest in the case the request was to ensure that the evidence relied on in the respective parties final briefs is as accessible as possible. The Co-Prosecutors also continued to discharge their disclosure obligations.

Case 003 Review and analysis of the evidence collected to date by the Co-Investigating Judges continued. Additionally, the International Co-Prosecutor confidentially filed two requests to the Co-Investigating Judges.

Cases 004 and 004/02 Review and analysis of the evidence collected in the investigations against Yim Tith and Ao An was ongoing. The International Co-Prosecutor also filed a confidential response in Case 004 and four confidential responses in Case 004/2.

Outreach Staff members participated in a conference on the legacy of the Court in Phnom Penh at the beginning of the month. In addition, members of the office spoke with representatives of a Argentinian NGO about the nature of the office's work and broader issues in international criminal justice.

Civil Parties Co-Lawyers

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 to develop and implement proposed judicial reparation projects for case 002/02.

The International Lead Co-Lawyer participated in the presentation of the Phka Sla Kraom Angkar proposed reparation project to the German parliamentary delegation from the German Committee for International Cooperation and Development on 4 February at the Khmer Arts Theatre in Takhmao. The Lead Co-Lawyer spoke on the current status of ECCC proceedings, victims' participation, and the right to meaningful reparation.

On 9 February, the Victims Support Section held a Civil Party Forum in Kampong Cham in which the Lead Co-Lawyers participated and in which 136 civil parties were consulted as to the implementation of reparation projects in case 002/01 and the proposed reparation projects in case 002/02, in addition to being updated as to the proceedings in case 002.

On 16 February, the International Lead Co-Lawyer participated in the Film Screening and Forum on Sexual and Gender-Based Violence during the Democratic Kampuchea Regime and Contemporary Cambodia at the Royal University of Law and Economics in Phnom Penh. The Lead Co-Lawyer spoke

about the prosecution of sexual violence at the ECCC.

On 21 February, the Lead Co-Lawyers attended a reception held by the British Ambassador to highlight the relevance of the global Preventing Sexual Violence Initiative (PSVI) with relevant stakeholders in Cambodia. The topics explored included the work and role of the ECCC with respect to litigation of forced marriage in case 002/02.

Victims Support Section

Legal Representation

After the evidentiary hearing of case 002/02 was over, the ECCC-funded Civil Party Lawyer team have focused on their technical work and assistance provision to civil parties which the team had several meetings with civil party lawyers to discuss Im Chem's case of 004 after her dismissal by OCIJ and they selected some civil parties to participate in the launching of Khmer Rouge History movie, "First, they killed my father", of American Actress and filmmaker, Angelina Jolie. Also, those selected civil parties were interviewed by Angelina Jolie. Additionally, they worked with relevant stakeholders within ECCC on protective measures requested by some civil parties and participated in Regional Forum in Kampong Cham province organized by the section.

Processing and Analysis

During the month, the team received 110 applications applying for cases 003 & 004, and 1 piece of supplementary information from lawyer. Additionally, the team filed 64 applications in cases 003 & 004 and 1 request letter for continuing civil action to Office of Co-Investigating Judges. As of 28 February, there were 2104 applications in total for both cases 003 & 004.

Orders and Decisions

January

Trial Chamber:

Decisions and Orders Issued between 1 and 31 January 2017

3 January 2017: Letter from Trial Chamber to German Federal Office of Justice, Bonn, Germany <E443/8>

9 January 2017: Reasons for Decision on Co-Prosecutors' Request to call two additional witnesses on the Role of the Accused (E452) <E452/1>

16 January 2017: Memorandum regarding Proposed Defence Budget Cuts <E456>

18 January 2017: Notice of Trial Chamber's Decision not to hear 2-TCW-946 (Walter HEYNOWSKI) <E443/7>

18 January 2017: Note Verbal from Trial Chamber to Embassy of the Federal Republic of Germany <E443/8/2>

26 January 2017: Admission of newly disclosed written records of interview from Cases 003 and 004 of witnesses heard in the course of the Case 002 trial proceedings <E319/67>

26 January 2017: Written Reasons for Decision on NUON Chea's Rule 92 Motion to use certain S-21 Statements <E399/5>

26 January 2017: Decision on International Co-Prosecutor's Request for Authorization to Provide Confidential Case 002 Documents to the MEAS Muth Defence in Case 003 <E442/2/1>

26 January 2017: Order Closing Investigation Related to Documents Received from Prof. Walter Heynowski <E443/9>

Supreme Court:

Decision on Civil Parties' Immediate Appeal Against the Trial Chamber's Decision on the Scope of Case 002/02 in Relation to the Charges of Rape, 12 January 2017, E306/7/3/1/4.

February

Trial Chamber:

Decisions and Orders Issued between 1 and 28 February 2017

7 February 2017: Decision on International Co-Prosecutor's Second Urgent Request for Authorization to Provide Confidential Case 002

Documents to the MEAS Muth Defence in Case 003 <E442/3/1>

23 February 2017: Letter from Trial Chamber to the Dean of the Amsterdam Bar Association <E378/4>

27 February 2017: Decision on Reduction of the Scope of Case 002 <E439/5>

Pre-Trial Chamber:

PTC 04/29

On 15 February 2017, the Pre-Trial Chamber issued a decision unanimously declaring inadmissible an appeal against decisions on disclosure of Case 004 material into Case 002.

PTC 04/30

On 16 February 2017, the Pre-Trial Chamber issued a decision unanimously dismissing an application for annulment of disclosure decisions.

PTC 03/31

On 16 February 2017, the Pre-Trial Chamber issued a decision unanimously declaring inadmissible an appeal against decisions on disclosure of Case 003 material into Case 002.

Outreach and Activities

7 February 2017 - More than 300 Cambodian Youth from Prey Veng Province visited the ECCC, Tuol Sleng Genocide museum, Cheung Ek Killing Field.

3 February 2016 - more than 1000 students from different high schools in Kampong Speu and Kampot Provinces and talking about ECCC' establishment and its mandate. Students enthusiastically talked about KR history and the trials, sharing that they learned about the history of Kampuchea Democratic through their parents, grandparents and teachers.

2 February 2017 - 300 students from Preah Ang Duong High School, Prey Veng Province briefed by ECCC' Spokesman Neth Pheaktra about the ECCC's works.

31 Jan 2017 - 330 students from Preah Ang Duong High School, Prey Veng Province were brief about the ECCC and its works. Students also visited S-21 and Chueng Ek.

18 January, 2017 - As a part of the memory project, ECCC organizes activities for promoting the hearing processes of former Khmer Rouge senior leaders to the public. Mr. Neth Pheaktra gave a lecture to more than 1000 students and teachers in Ang Doung high school and Chomrourn Roath high school in Prey Veng city.



Photos: ECCC



Photo: ECCC

Civil Parties' Forum: Helping Witnesses Engage With Justice

I walked into the hall unsure what to expect. The ECCC's Civil Parties were in Kampong Cham on the 9th of February of 2017, holding a Forum on the developments of the court proceedings and reparations in Case 002/02, in which six experts, including Neth Pheaktra the press officer of the ECCC, briefed the audience.

To my surprise, I found more than one hundred Cambodians seated in the hall, attentive and engaged with the panel. It was evident that the Cambodian people take these discussions very seriously; the panel enables engagement in the trials, which have become a way for them to seek justice.

Marcos Smith, a panelist from Civil Peace Service of the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), a German organization with an important presence in Cambodia, approached the audience by saying:

"We are extremely proud of you, all of you, to have the courage to tell the Court, the people of Cambodia and the whole world your personal story".

He related himself, as a German, to what happened in Cambodia, growing up in resilient Germany after the Second World War.

"It is so important that you tell your story to help that such terrible things do not happen again", he said. "As you know, crimes against humanity still happen in

the world, but with your contribution we can help reduce those crimes. It is my deepest hope and wish that these symbolic reparations will help you find relief from all what you experienced during the Khmer Rouge period."

There have been more than thirteen Forums, which help keeping the Civil Parties in the loop, as well as reinforcing their decision to speak up and seek justice for victims and themselves after having survived difficult life circumstances.

One of the attendees was Ms. Sim Vann, a seventy-five year old woman from Kampong Cham who lost her brother, her husband and her father. They were all accused of being enemies of the regime.

"I applied for the Civil Parties to seek justice. And I am satisfied to see Nuon Chea and Khieu Sampan be brought on trial for the crimes they allegedly committed", said Vann, just as she brushed a tear from her eyes.

Slowly, she regained her voice and continued explaining how she had to restart her life with no one left to help her. Despite her hardships, Ms. Sim Vann continues to participate by listening to the developments of the case. Although the trials won't bring back her loved ones, she sees it as an important reconciliatory process.

"The trial is important, fair. It can bring justice, and for me is all I have left of them, and they deserve this", she concluded.

Mr. Touth Paal, a fifty-three year old man from Kampong Cham, had a family member taken away by the regime.

"It was my brother-in-law, he was a soldier with the regime, but was later accused of treason. He disappeared one day. It was a big loss for my sister; she was terribly affected by this, so I want to seek justice for myself, my family and for him. That's why I applied," he said.

Of his opinion on the trial and the forum, Mr. Paal said, "I think that the trial at the ECCC is to bring justice. It is easier to talk about it today, but back then it was a tragedy".

The ECCC sees the Civil Parties as a key element, being that it is the only international criminal court in the world that includes them as a legal entity during the trial. Therefore, the Forum helps even more highlighting to participants such as Mr. Paal and Ms. Vann, their importance.

By the end of the Forum, all those present went forward to receive information booklets about the Court, chat with the panelists, and ask pertinent questions. Despite enduring horrific struggles, participants had not given up; they stood strong and resilient, advocating for what is right and what is just.

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On 20, 21, and 22 January 2017, the Lead Co-Lawyers attended the launching of the classical dance production and related exhibition of "Phka Sla Kraom Angkar: Forced Marriages under the Khmer Rouge Regime", a proposed judicial reparation project for case 002/02, and participated in the question and answer

sessions following the performances. Approximately 142 civil parties attended the event.

Victims Support Section

Legal Representation

The ECCC-funded Civil Party Lawyer team fully participated in all evidentiary and

key document hearings and reviewed case files of witnesses and civil parties needed to be examined as the evidentiary hearings of Case 002/02 still continued. In working with Lead Co-Lawyer Section, the lawyer team coordinated their civil party clients to participate in the reparation projects including Pka Sla Krom Project and launching a film on Khmer Rouge History.

Processing and Analysis

During the month, the team received 14 applications applying for cases 003 & 004, 1 request letter for continuing civil action and 5 pieces of supplementary information from lawyers. Additionally, the team filed 8 applications in case 004 and 5 pieces of

supplementary information to the Office of Co-Investigating Judges and filed 1 request letter for continuing civil action to Trial Chamber. As of 31 January, there were 2049 applications in total for both cases 003&004.



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