



# The Court Report

## The Extraordinary Chambers in the Courts of Cambodia

Moving forward through justice



Witness Meas Sourn on 29 June 2016 during his testimony in Case 002/02 against Khieu Samphan and Nuon Chea. Photo credit: ECCC/Yar Rorsart

## Trial Chamber heard evidence on Internal Purges

The Trial Chamber of the ECCC started to hear evidence on internal purges in the Khmer Rouge regime on 28 June 2016. The definition of purge according to the Closing Order in Case 002/02 is ‘to politically purify by means of a range of sanctions, from being demoted or reeducated, to being smashed’.

One Civil Party and one Witness already came to testify about the internal purges before the Trial Chamber. The Civil Party, Chhun Samorn, remembers that many soldiers and cadres from the East Zone were killed. He also described his own accusation of being a traitor and how he escaped from soldiers from

the Southwest Zone who had taken him, along with 28 other prisoners, to be executed. Furthermore, Witness Maes Sourn, the son of former a District Chief in the East Zone, continued to testify on purges of East Zone cadres. He particularly highlighted the massive purges that took place on 25 May 1978.

Previously, Kaing Guek Eav, alias Duch, had already started to speak about this new segment of the trial. He was able to provide details about the incrimination and surveillance of high ranking officials, and the alleged paranoid atmosphere

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# Trial Chamber heard evidence on Internal Purges

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within the upper echelon of the Khmer Rouge. He mentioned that high ranking officials were “monitored very closely before they were arrested”. Moreover, the Witness stated that for most Khmer Rouge cadres that were arrested, their spouses and children were also arrested and often killed. He also described mass killings of prisoners in 1978.

Many more testimonies about internal purges are yet to come. One hundred and sixteen (116) Civil Parties were recognized in the evidence for internal purges.



## EU releases 2016 grant allocation to the ECCC

Implementing the pledge announced last year for a total support of EUR 8.9 million to the Extraordinary Chambers in the Courts of Cambodia (ECCC) for the period 2015 to 2016, the European Union (EU) has proceeded with the release of the final grant installment of EUR 2.9 million, of which EUR 1.5 million will support the international component and EUR 1.4 million will support the operations of the national component of the ECCC.

The EU is one of the largest donors to the ECCC, and this last installment brings the total financial assistance provided by the EU to EUR 16.2 million since the Court’s inception in 2006.

“On behalf of the ECCC, we would like to express our gratitude for the generous and continuous support offered by the EU, said Acting Director of Administration Tony Kranh and Deputy Director of Administration Knut Rosandhaug in a joint statement.



# Results of Forum on Developments of ECCC’s Proceedings and Reparations in Case 002/02

The Victims Support Section (VSS) successfully conducted a forum on 24 June 2016 with the participation of Civil Parties, Civil Party Lead Co-Lawyers, Civil Party Lawyers, and representatives of the ECCC, the Embassy of Federal Republic of Germany, and national and international organizations.

After the opening by H.E. Kranh Tony, Acting Director of the ECCC, and Dr. Ludgera Klemp, Counsellor and Head of Cooperation at the Embassy of Federal Republic of Germany, Phnom Penh; the forum proceeded with the updates on the current proceedings of the ECCC, and followed by the presentations on reparations in Case 002/01 and Case 002/02 by VSS and Lead Co-Lawyers. Representatives from Legal Document Center, HelpAge Cambodia, and Bophana Audiovisual Resource Center gave presentations on their proposed reparation projects with active and meaningful participation by Civil Parties and their lawyers.

H.E. Kranh said that eleven (11) proposed reparations projects in Case 002/01 were endorsed by the Trial Chamber on 7 August 2014, and most of them were funded and implemented successfully throughout the country. He hoped reparations in Case 002/02 would again move forward in the interests of victims and added that the Royal Government of Cambodia has been supporting the operations of the ECCC and reparations implemented under its legal framework.

Dr. Klemp encouraged participants to actively engage in the discussions on the ECCC’s proceedings and reparations and said that

Germany together with other countries have actively supported ECCC’s activities. Germany supported many projects of non-judicial measures and reparations in Case 002/01, including Peace Learning Center in Kraing Tachan of Takeo province, Memorial to the Victims of Democratic Kampuchea at Tuol Sleng Museum, Testimonial Therapy and Self-Help Groups, and Mobile Exhibition on Forced Transfer and Killings at Tuol Po Chrey. Dr. Klemp also mentioned that in addition to previous funding Germany together with Switzerland and UN Women have recently provided more financial support to one of the proposed reparation projects in Case 002/02, Pka Sla Krom Angkar, implemented by a consortium of NGOs.

Civil Parties who joint the forum were satisfied with the discussions and presentations on the proposed reparations projects. They understood that ECCC’s legal framework provided only ‘collective and moral’ reparations, and suggested having effective implementation of the projects.

Civil Party forum is a safe space in which Civil Parties and their legal representatives meet and have discussions on the developments of the ECCC’s judicial proceedings and reparations that benefit themselves as well as the young generation.

Since the beginning of Case 002/02 proceedings, the VSS has conducted 13 forums and coordinated approximately 1,456 Civil Parties to get involved in discussions and presentations.

# Case file 004/01 forwarded for final submissions

On 27 July 2016, the Co-Investigating Judges issued a forwarding order under Internal Rule 66(4) requesting the Co-Prosecutors to file their final submission. Under Internal Rule 66(5), the Co-Prosecutors now have up to three months to file their submission.

After that, the Defence will be given adequate time to respond to the Co-Prosecutors' final submission. The Co-Investigating Judges will issue the Closing Order in due course after having received submissions from both sides.

Under the most recent Completion Plan update of 30 June 2016, the Closing Order is expected to be issued in the first quarter of 2017.

The judicial investigation against Im Chaem was initiated following receipt of the Third Introductory Submission filed by the International Co-Prosecutor on 9 September 2009. The scope of the investigation was subsequently expanded by Supplementary Submissions filed by the International Co-Prosecutor on 18 July 2011, 24 April 2014, 5 August 2015, and 20 November 2015.

The notification on December 18, 2015 marks the conclusion of over six years of ju-

dicial investigation into Im Chaem for alleged crimes committed between 17 April 1975 and 6 January 1979. The judicial investigations against Ao An and Yim Tith in Case 004, who were charged by the International Co-Investigating Judge on 27 March 2015 and 9 December 2015, respectively, remain open

In the order, Case 004/01 was severed from Case 004 by an order of the Co-Investigating Judges of 5 February 2016. In the order, the Co-Investigating Judges ordered the severance of the proceedings against Im Chaem from Case 004. The severance was ordered because of the charged person's right to a determination of the charges brought against her without undue delay. Considering that the notice of the conclusion of the judicial investigation against Im Chaem was issued on 18 December 2015, while the investigation against other charged persons in Case 004 continues, the Co-Investigating Judges found it to be in the interests of justice to sever the proceedings against Im Chaem from Case 004. This will allow bringing the proceedings against Im Chaem to a timely conclusion while continuing the investigations in the remainder of Case 004.



Case 004/01 Charged person Im Chaem

## Appointment of new foreign Co-Lawyer for Ms. Im Chaem



The Defence Support Section ("DSS") of the Extraordinary Chambers in the Courts of Cambodia ("ECCC") has assigned Mr. Wayne Jordash QC of the United Kingdom as the foreign Co-Lawyer to represent Ms. Im Chaem in Case 004/01.

Mr. Jordash is a London-based barrister specialising in international crimes and other serious criminal offences. He was called to the Bar of England and Wales in 1995 and has been a Queen's Counsel since 2014. The Bar Association of the Kingdom of Cambodia has admitted him to practice before the ECCC. Mr. Jordash has extensive experience in criminal proceedings before international courts, having represented defendants at the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone. He has also worked at the ECCC as a legal consultant for the DSS in 2008-2009. Prior to concentrating on international law, Mr. Jordash had an extensive criminal defence practice in British courts. Alongside his criminal defence work, he has provided legal advice on international human rights, humanitarian and criminal law to a number of states and international organisations. He has also lectured and published substantially on these issues.

Mr. Jordash will represent Ms. Im Chaem together with Mr. Bit Seanglim, who was assigned in December 2013 as her national Co-Lawyer. Mr. Jordash will replace Mr. John Jones who passed away in April 2016. In making the assignment, the DSS took into consideration Ms. Im Chaem's expressed preferences and all the applicable conflict waivers.

## Supreme Court Chamber

In June, the Supreme Court Chamber continued its consideration of the respective appeals by Nuon Chea, Khieu Samphân, and the Co-Prosecutors against the case 002/01 trial judgement. It also continued deliberations on and drafting of the appeal judgement.

## Trial Chamber

The Trial Chamber sat for 16 hearing days in June 2016, hearing the testimony of Kaing Guek Eav alias Duch for 11 days, and also hearing two further witnesses and one Civil Party, all on the trial topic of the S-21 Security Centre.

On 2 June 2016, the Trial Chamber provided the reasons for its decision of 5 February 2016 rejecting the Nuon Chea Defence's request to, first, reconsider the Chamber's 29 June 2015 decision which rejected the admission of Chapter II of the Human Rights Watch Report titled "30 Years of Hun Sen: Violence, Repression, and Corruption in Cambodia" and, second, to admit into evidence Chapters III and IX of the same Report. The Chamber rejected the request for reconsideration having found no jurisdictional basis for it under the ECCC legal framework. The Chamber rejected the admission of Chapter III on the basis that the request was untimely and the information contained in the Chapter fell outside the jurisdiction of the ECCC. Finally, the Chamber rejected the admission of Chapter IX of the Report on the basis that it did not contain relevant information that could assist the Chamber in ascertaining the truth in the current case.

Also on 2 June 2016, the Trial Chamber provided the reasons for its decision of 10 March 2016 admitting into evidence 18 documents proposed by the Nuon Chea and Khieu Samphan Defence teams related to the testimony of expert Alexander Hinton (2-TCE-88). Concerning the Nuon Chea Defence request, the Chamber admitted two documents related to Mr. Hinton's background and qualifications, six articles authored by Mr. Hinton, as well as five documents related to Mr. Hinton's professional activities. Pursuant to the Khieu Samphan Defence request, the Chamber admitted three editorials published in the Phnom Penh Post, two of which were authored by Mr. Hinton.

On 3 June 2016, the Trial Chamber admitted five of 47 Written Records of Interview (WRIs) requested by the Co-Prosecutors which were relevant to the hearings on the S-21 security centre. The Parties had not objected to the admission of the WRIs in their oral responses during the proceedings on 23 May 2016.



Witness 2-TCW-900 appears via videolink before the Trial Chamber in the Courts of Cambodia in Case 002/02 against Nuon Chea and

On the same day, the Chamber provided reasons for its 27 May 2016 decision to admit on its own motion one WRI and three annexed documents pertaining to the testimony of Duch, which had been previously disclosed from Case 004.

On 7 June 2016, the Trial Chamber issued a memorandum granting a request by the Nuon Chea Defence to admit into evidence 12 previous statements of KAING Guek Eav alias DUCH (2-TCW-916), made before the Cambodian Military Court between 1999 and 2003.

On 8 June 2016, the Trial Chamber provided reasons for its decisions of 19 and 20 April 2016 admitting seven out of eight documents related to the testimony of witness Nhem En (2-TCW-919) and a book authored by the witness. In spite of the untimeliness of the request regarding some of the documents, the Chamber held that it was in the interests of justice to admit the seven documents as they were relevant to the current trial, were reliable sources, and closely related to existing evidence on the Case File. The Chamber also admitted the witness' book, finding that it was relevant to the current proceedings, and particularly the S-21 security centre.

On 10 July 2016, the Trial Chamber directed the Lead Co-Lawyers to prepare oral submissions on the reparation projects currently under development in Case 002/02, as well as to file written submissions providing a detailed description of the projects with the purpose of ensuring the realisation of meaningful reparation projects within a reasonable time.

On the same day, the Trial Chamber informed the Parties that it would not take further action regarding the alleged mistranslation of a witness' name in document E3/2469. The Chamber was informed by the Interpretation and Translation Unit that the English and French translations of the name accurately reflected the name which appeared on the Khmer version of the document.

Also on 16 June 2016, the Trial Chamber decided to admit two documents which had been submitted without translation into any of the official ECCC languages (E305/17) on 20 June 2015 by the Khieu Samphan Defence. Having obtained translations of the two documents, the Chamber considered that they met the requirements of Internal Rule 87(3).

On 17 June 2016, the Trial Chamber provided the reasons for its oral ruling of 18 April



and Khieu Samphan on 21 March 2016. Photo: ECCC/Julian Sonntag

2016 admitting into evidence excerpts from a book authored by Civil Party Chum Mey (2-TCCP-243). The Chamber held that the proposed book amounted to a prior statement of the Civil Party and thus, based on previous practice, would admit the excerpts as it would allow the Chamber to have a complete assessment of his testimony.

During the proceedings of 20 June 2016, the Trial Chamber issued an oral ruling admitting into evidence an interview of Kaing Guek Eav alias Duch, which was requested by the Co-Prosecutors prior to his testimony. The Parties were notified that the reasoning for the decision would be issued in due course.

On 21 June 2016, the Trial Chamber issued a decision on the International Co-Prosecutor's request of 8 June 2016 to admit into evidence two written records of interview containing previous statements of witness Kaing Guek Eav alias Duch, as well as a document recording a confession of Chen Suon, which was relied upon by the Office of the Co-Investigating Judges (OCIJ) in compiling the updated S-21 prisoner list. The Chamber noted its previous practice of admitting prior statements of witnesses who testify before it and thus decided to admit the written records of interview. The

Chamber, also in following its previous practice of admitting documents underlying S-21 prisoner list produced by the OCIJ, decided to admit the confession of Chen Suon.

On 28 June 2016, the Trial Chamber issued a memorandum providing guidance to the Parties on the final stages of Case 002/02. The Parties were notified that the Chamber had projected the completion of evidentiary proceedings in Case 002/02 by December 2016. It was decided that the Civil Parties Harm Suffered Hearings on the topic of the Regulation of Marriage would be for one day only since numerous Civil Parties were already scheduled to testify on this topic. The Chamber also noted that such hearings were not suitable for the topics of armed conflict and the role of the Accused. The Chamber imposed a deadline of 1 September for any requests to admit new evidence in Case 002/02, with the exception of exculpatory evidence. The Chamber also noted that any character witnesses for Case 002/02 would be heard after the role of the Accused topic. Moreover, the Chamber alerted the parties that it would request advanced briefing on the applicable law following the delivery of the Case 002/01 appeal judgment. Finally, the Chamber noted that Closing Briefs were to be filed in one language with a dead-

line two months after the close of the hearing of evidence, with Closing Statements following one month thereafter.

On 29 June 2016, the Trial Chamber issued an oral ruling admitting into evidence a summary of the Civil Party application of 2-TCCP-236, requested by the Nuon Chea. The Parties were informed that reasons for the decision would be issued in due course.

On 29 June 2016, the Trial Chamber issued a decision on the International Co-Prosecutor's Request to admit into evidence 48 Written Records of Interview (WRIs) and related annexes from Cases 003 and 004. The Chamber noted that five WRIs had previously been admitted by the Chamber. It rejected 29 documents which the Chamber considered to be untimely because they had not been requested for admission until nearly six months after the International Co-Investigating Judge had authorised them for disclosure. The Chamber also rejected two further documents because the International Co-Prosecutor did not follow the Chamber's order in its disclosure decision to seek admission directly of documents upon which it sought to rely (E363/3). The Chamber admitted 14 WRIs and annexes which it considered to have been requested in a timely fashion, finding they also met the requirements of Internal Rule 87(3) and 87(4).

On 30 June 2016, the Trial Chamber denied the request of the Co-Lawyers for Meas Muth, Charged Person in Case 003, who were also former counsel for Ieng Sary, seeking to intervene and file submissions on the testimony of expert Mr. Michael Vickery (2-TCE-94). The Co-Lawyers submitted that there was a real risk that Mr. Vickery's testimony may violate the confidentiality of Meas Muth and Ieng Sary's respective cases. The Chamber found that the duty of confidentiality was not an issue to be regulated by the Chamber and ordered the Witness and Expert Support Unit to inform Mr. Vickery of the confidentiality concerns of the parties so that the expert could inform the Chamber as to whether he would be prevented from being completely forthcoming about his expert opinion.

### Pre-Trial Chamber

During the month of June 2016, the Pre-Trial Chamber notified its decisions on cases PTC 04/22 and PTC 04/24. These decisions can be found in the ECCC website.

The Chamber advanced the preparations for deliberations on various cases, including: one dealing all together with two applications

for annulment of all investigative action and of charges concerning some of the alleged purges and for annulment of charges of Grave Breaches, and with an appeal against ICIJ's refusal to forward seven other such motions (PTC 03/28); another motion for annulment of investigative actions (PTC 04/23); and with an appeal concerning testimonies at trial in closed session (PTC 04/26).

The Chamber became fully briefed on two other cases, consisting of: an application for annulment of investigative actions (PTC 04/27); and an application for annulment of transcripts and written records of interviews (PTC04/1/28).

Furthermore, the Chamber was newly seized with two new cases, comprising of: an appeal against a decision of the Defence Support Section (Case 14-06-2016-ECCC-PTC); and a request asking permission for the initial filing in one language of an appeal against the ICIJ's Decision on a request for clarification concerning Crimes Against Humanity and the Nexus with Armed Conflict (PTC 03/30).

Since January 2016, the Pre-Trial Chamber has issued a total of 11 decisions and is currently seized with seven cases. Next deliberations are expected to take place in late July 2016.

### Office of the Co-Prosecutors

June saw the continued engagement of staff and interns of the Office of the Co-Prosecutors across four cases, with 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 the Court hearing a number of witnesses in relation to the trial segments dealing with S-21 Security Centre and the East Zone purges. Particularly, the Court heard extensive evidence from former head of S-21 Kaing Guek Eav, alias Duch, regarding detention, torture and killing at S-21 and the role of the Accused in these crimes. The Co-Prosecutors responded to Nuon Chea's written submissions on the significance of alleged factions during the Democratic Kampuchea period, pointing out that Nuon Chea's arguments would essentially permit an authoritarian regime to imprison and kill anyone suspected of disloyalty. The Co-Prosecutors also requested the Chamber to obtain interviews and information relating to forensic examinations of Choeng Ek and Krang Ta Chan from Voeun Vuthy, who has been working



Monks visiting from Kandal Province observe the second day of testimony of former Tuol Sleng photographer Mr. Nhem En (2-TCW-9 Nuon Chea and Khieu Samphan on June 2016. Photo: ECCC/Yar Rorsat

on the sites as an investigator and is to testify before the Chamber. Additionally, the Co-Prosecutors requested the admission of prior statements of a proposed witness, as well as filing three confidential responses and a confidential request to the Chamber. The Co-Prosecutors continued to discharge their disclosure obligations with a request to disclose material from case 004 into case 002.

#### Cases 003

Review and analysis of the evidence collected by the Co-Investigating Judges continued and a confidential reply was filed by the International Co-Prosecutor.

#### Cases 004 and 004/01

Review and analysis of the evidence collected in the investigations against the three Charged Persons continued. Additionally, in case 004, the International Co-Prosecutor confidentially filed three requests, two responses and a reply to the Co-Investigating Judges and two confidential submissions to the Pre-Trial Chamber. In case 004/01, the International Co-Prosecutor filed a confidential response to the Co-Investigating Judges.

### Outreach

Representatives of the Co-Prosecutors office spoke to visiting students from the University of San Francisco and the East West Centre of Hawaii about the background, goals and work of the Court, as well as meeting a group of visiting scholars from various American universities to discuss how the Office of the Co-Prosecutors works and providing an overview of developments at the Court.

### Office of Co-Investigating Judges

During the month of June, the international side of the Office of the Co-Investigating Judges ("OICIJ") continued the investigations of cases 003 and 004. Two field missions took place in case 003, in the course of which eleven PVs were obtained, and four investigation action reports were drafted. In case 004, three field missions were carried out, generating nine interviews and five investigation action reports. Two witnesses were interviewed at the ECCC premises in case 003 and four in case 004.

During the month of June, The legal unit has been processing investigative material, and addressing investigative requests and proce-



2019) on Case 002/02 proceedings against

dural motions. The Analysts Unit assisted and participated in all field missions carried out during this period. They also assisted legal officers in alaying Khmer language documents and DK contemporaneous documents.

The supplementary information and civil party applications in cases 003 and 004, which presently total in excess of 2,479, are still being evaluated by analysts, investigators and legal officers, to assess their admissibility and relevance to both case files.

## Defence Support Section

### Nuon Chea Defence

The Nuon Chea Defence Team continued to be engaged in case 002/02 on the Security Centres and 'internal purges' segment, including by examining Kaing Guek Eav (Duch) the former S-21 chairman. Alongside, the Defence filed a series of requests before the Trial Chamber.

On 7 June, the Defence filed its fourth witness request for the Security Centres and internal purges segment. Some of the proposed witnesses were working at S-21 at the time of the

events, while others could provide evidence regarding the original documentation found at S-21 a few months after the fall of the regime. The team also filed a public redacted version of its second and third requests to call witnesses for the current segment, which had been filed confidentially in April 2016. Eight of the individuals the Defence sought to call are either former senior leaders of the treasonous rebellion within the Democratic Kampuchea regime, or individuals who can testify as to the rebellion's leaders and particularly Sao Phim and Ruos Nhim, who were the joint overall leaders of the rebellion. The Defence also sought the appearance of eleven individuals who could testify as to the preparations or attempts of treasonous rebellion led by the defecting CPK cadres with Vietnamese support against the CPK and legitimate DK government. It had also requested that all the witnesses appear prior to the appearance of Duch, in order to obtain his reactions to their evidence. To date, no decision has been rendered by the Trial Chamber.

On 10 June, the Defence made submissions on the relevance of evidence of treasonous rebellion for Nuon Chea's individual criminal responsibility, at the request of the

Trial Chamber, in order to provide context to its requests to call witnesses (as detailed above). The Defence emphasized the importance of evidence on the existence of a treasonous rebellion, which would help prove, among other things, that detainees at S-21 were not arbitrarily detained and executed without legal basis, contrary to the charges. It recalled that it had requested to hear a total of 35 witnesses who would be able to describe preparation and attempts to put into effect the internal rebellion against the government of Democratic Kampuchea across multiple zones and regions. Further, the Nuon Chea Defence emphasized the ramifications of such evidence regarding the individual criminal liability of Mr Nuon Chea, and particularly, the allegations of participation in a Joint Criminal Enterprise.

### Khieu Samphan Defence

In June 2016, the Khieu Samphan Defence remained fully engaged in preparing and attending the hearings in case 002/02 regarding the S-21 security center and the 'internal purges'.

The Khieu Samphan Defence also filed several submissions. On 20 June, the Defence team opposed a co-Prosecutors' request for investigative action in relation to a witness. The same day, the Defence filed submissions regarding the Trial Chamber's request to Nuon Chea to further explain the relevance of demonstrating the existence of conflicting factions within the Democratic Kampuchea with respect to his criminal liability (E395/2). Khieu Samphan emphasized Nuon Chea's right to present his case without being bound to a higher prima facie relevance threshold, which would constitute a breach to his fair trial rights.

On 22 June, before the hearings on the 'internal purges', the Khieu Samphan Defence filed a request for clarification of the scope of case 002/02 concerning that topic (E420), in view of the fact that the expected testimonies of the witnesses selected by the Chamber do not prima facie coincide with the closing order and the crime sites selected in the severance decision for case 002/02. The Defence noted that the vast majority of the expected evidence was gathered during the ongoing investigations in cases 003 and 004. It expressed its concerns about a potential extension of the allegations against the accused in case 002. The Trial Chamber responded to the request in a short and opaque memorandum, apparently saying that the matter will be addressed in the Judgment stage (E420/1).

### Ao An Defence

In June, the Defence for Ao An continued to review all materials on the case file in order to participate in the investigation, prepare Ao An's Defence and protect his fair trial rights.

### Meas Muth Defence

In June, the Meas Muth defence team began preparing its response to the briefs submitted to the Office of the Co-Investigating Judges by 11 amici curiae on the question of whether an attack by a State against its own military could constitute an attack against a civilian population for purposes of crimes against humanity. The team also filed three motions that have been classified as confidential. The team continues to review material on the case file and to prepare and file submissions where necessary to protect Mr. Meas Muth's fair trial rights.

### Yim Tith Defence

In June, 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 protect his fair trial rights. The team also prepared their reply to the amicus curiae briefs submitted in response to the International Co-Investigating Judge's public call for submissions on the scope of 'crimes against humanity' in international customary law between 1975-79.

### Im Chaem Defence

In June, the Defence team for Im Chaem replied to the International Co-Prosecutor's response to the Defence's annulment application before the Pre-Trial Chamber. The Defence continues to review the evidence in the case file in order to prepare Ms. Im Chaem's defence and to safeguard her fair trial rights in the proceedings remaining at the pre-trial stage in case 004/01.

## Civil Party Lead Co-Lawyers Section

### Key Legal Developments

The Lead Co-Lawyers for Civil Parties continued to represent the consolidated group of civil parties, facilitating the examinations and putting questions to three witnesses who testified about their experiences at S-21 Security Center or about purges conducted from within the Khmer Rouge ranks. One Civil Party, Chhun Saman, testified about his experiences during the East Zone purges in Svay Rieng and Prey Veng in 1978.

On 16 June 2016, pursuant to the direction of the Trial Chamber, the Lead Co-Lawyers presented nine prioritized reparation projects to the parties, the Chamber and public, that are being developed as proposed judicial reparation projects for the benefit of

civil parties in Case 002.

On 20 June 2016, the Lead Co-Lawyers filed their Response to Nuon Chea's Fourth Request Re Security Centers and Internal Purges. On the same date, the Lead Co-Lawyers also filed their Response to Nuon Chea's Submission on the Relevance of Evidence of Treasonous Rebellion to His Individual Criminal Responsibility in Case 002/02.

On 27 June 2016, the Lead Co-Lawyers made oral submissions on the scope of Case 002/02 as it relates to internal purges. The Lead Co-Lawyers submitted that evidence of internal purges in the North and East Zones were relevant to the existence of a policy to target enemies of the Democratic Kampuchea regime, and that facts relating to internal purges is relevant to the specific security centers within the scope of Case 002/02 were also relevant.

### Outreach and training

On 4 June 2016, the International Lead Co-Lawyer participated in an interview with Kdei Karuna about the scope of Case 002/02 with respect to the treatment of the Cham and the treatment of the Vietnamese.

On 6 June 2016, the Lead Co-Lawyers attended a civil party consultation hosted by the Cambodia-German Cultural Association with respect to the development of a proposed judicial reparation project. The Lead Co-Lawyers also attended the official launch of the proposed project on 30 June 2016.

The Lead Co-Lawyers attended the civil party forum on 24 June 2016, in which 110 civil parties participated. They were informed about the progress of proceedings in Case 002 and consulted with respect to their views on reparation projects being developed for Case 002/02.

## 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. Additionally, one lawyer of the team met with the Office of Co-Prosecutor and Lead Co-Lawyer Section to discuss one civil parties' case. Also, the lawyer team participated in the Regional Forum organized by the section in Phnom Penh.

### Processing and analysis

The Processing and Analysis Team (PAT)



continued to collect supplementary information in Cases 003 & 004 through phone calls made to applicants having been suffered from alleged crimes under the investigation scope of Cases 003 and 004. Additionally, the team received one civil party application in case 003 and one in case 004 and filed 3 request letters to continue civil action and 29 pieces of supplementary information, 21 from lawyer & 8 OCIJ's request, 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 Khmer Art Academy, Bophanna Audiovisual Center, Transcultural Psychosocial Organization and Kdei Karuna at Kdei Karuna's office to discuss Pka Sla Krom Angkor project, a proposed reparation pro-





ject, and funding opportunity from GIZ.

- together with CPLCLS's officers had a meeting with Mr. Butmao, Executive Director of Minority Rights Organization (MIRO) at MIRO office to discuss the organization's proposed reparation project and funding status.

- together with CPLCLS's officers had a meeting with Transcultural Psychosocial Organization (TPO) at TPO office to discuss the organization's proposed reparation project and funding status.

- a project launching on "The Courageous Turtle" conducted by MetaHouse. Many representatives of both national and international NGOs, the EU Ambassador, the Counsellor and Head of Cooperation at the Embassy of Federal Republic of Germany, Civil Parties and the general public were present in the event.

- a few meetings with CPLCLS to discuss the Case 002/02 proposed reparation requests so as to develop brochure and strategy for fundraising campaign.

In addition, Gender-Based Violence Project of the section has coordinated and implemented its project through the following

meetings and activities with its partners:

- had two separate meetings, one with the Trial Chamber and another one with Defense Team of the ECCC, to discuss an additional need of knowledge of their staff and to identify what other related gender based-violence topics should be included in the future training which will be organized for ECCC's officials.

- Organized a half day meeting on 17 June for EVWA Legal Aid Network at the UN Women Cambodia office with 24 participants including Cambodian lawyers, NGOs working in gender and transitional justice issues, university students, VSS/ECCC, GIZ, UN Women representatives, UNOHCHR, GADC, COMFREL, KdK, CHRAC and DFAT. This meeting aimed to provide a forum for the group members to come together to solve current problems/challenges related to gender responsive services and learn from examples of good practices.

- had experience sharing meeting with the 7 representatives of non-governmental organization from Sri Lanka and Bopea Institute Organization; a community-based

organization in Cambodia working in cooperation with Partners in Alternative Training (Paltra) of Sri Lanka. The purpose of the meeting was to better understand the participation of women in the ECCC proceeding, particularly gender-based survivors and how the gender-based crime was integrated in the ECCC's proceedings.

- In the period of June, 30 civil parties were offered psychological briefing and de-briefing during their participation in the ECCC's hearing. It was an additional emotional support, intending to provide psycho-education on physical and psychological reactions to respond to their trauma experiences during their participation in hearings. This gave them some spaces to express their feelings and also raise other concern if they had. Each CPs was also handed over a telephone hotline card and was briefly informed about availability of psychological support from TPO if they wish to access.

#### Outreach

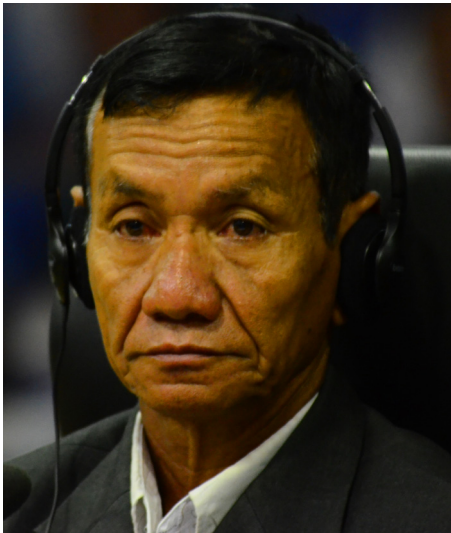
During the month, Outreach Team invited 81 civil parties, including 62 women, from Kandal, Siem Reap, Kampong Cham, Kratie, Kampong Speu, Takeo, Kampong Thom, Prey Veng, Svay Rieng and Phnom Penh to attend hearings of Case 002/02 at the ECCC. At lunch break of each hearing day, they were arranged to 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 civil parties. As usual, 10 CPs were arranged to sit in the Courtroom along with their lawyers and the rests were in the public gallery.

Under the financial support of German Federal Ministry for Economic Cooperation and Development (BMZ), Victims Support Section of ECCC organized the Forum on the Developments of ECCC's Proceedings and Reparations in Case 002/02 in Phnom Penh which was presided over by H.E. Kranh Tony, ECCC Acting Director of Administration, and German Embassy Delegation, Dr. Ludgera Klemp, with the participation of 191 participants including civil parties, survivors of KR, focal points from Kampong Cham, Kampong Speu, Prey Veng, Kandal and Phnom Penh, and BMZ & NGOs officials, CPLs, LCLs, reporters and ECCC officials. The purposes of the forum were (i) to inform civil parties about the developments of the ECCC's proceedings against Khieu Samphan and Noun Chea and the progress of the implementation of Case 002/01 reparation projects; and (ii) to present and discuss the proposed reparation projects in Case 002/02. Three proposed reparation projects in case 002/02 were presented by project implementers, including Legal Document Center, HelpAge Cambodia, and Bophana.

# TC heard evidence on Internal Purges

**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.

On June, a Civil Party and two witnesses testified in Case 002/02 trials hearing against Nuon Chea and Khieu Samphan.



**Mr. Suos Thy**

Mr. SUOS Thy, 2-TCW-816, was born in Preaek Kaev village, Kaoh Khael sub-district, S'ang district, Kandar province in 1951. He joined the revolution in August 1971 upon hearing Samdech Sihanouk's appeal for people to join the liberation against the Lon Nol regime. In 1972, he was enlisted as a combatant in Battalion 12, Regiment 23 where he remained until he was wounded taking part in the battlefield in Siem Reap province. He was then reassigned to the Battalion 112 office where he maintained a daily report of the regiment until a month after the fall of Phnom Penh in April 1975.

In December 1975, he was assigned to S-21, located within the premises of the Judicial Police department in the former Pohnea Yat Lycée, where he was put in charge of registering names of incoming and outgoing prisoners. The witness said prisoners were blindfolded, handcuffed and stripped of their clothes before they were taken to his office where he would write a brief on a pre-printed form including their name, origin and occupation. For large arrivals of prisoners, he was assisted by a young boy aged 14 or 15 years old

and another prisoner who knew how to read and write in Vietnamese who assisted in the registration of Vietnamese civilians and soldiers.

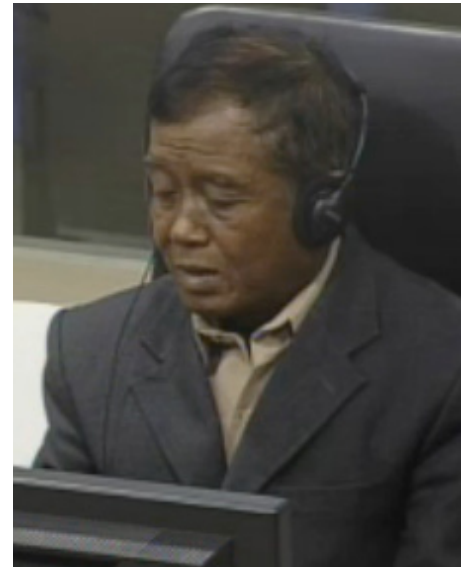
Suos Thy stated that the reality was that upon their arrival at S-21 the prisoners were considered dead already; not a single prisoner was released. Prisoners were shackled by their ankles and had to eat, sleep and relieve themselves in this position. A report of those prisoners who died in the cells was made by the medic stationed in each building and provided to Suos Thy for his daily registration of the situation.

Suos Thy's office was located within the Guard Unit (S-21B), opposite the entrance of Pohnea Yat Lycée, and included guards, drivers and the Medical Unit. During his time at S-21, he attended a number of political sessions presided over by Duch, which mostly involved speeches about the victory of 17th April 1975. He stated he was of very low rank and position and did not know about the objective or role of S-21 or that of the regime, he only completed those tasks assigned to him. He claimed he did not know what was going on at the upper level and had a limited understanding of the structure or the level of the district committee. Prior to the arrival of the Vietnamese in Phnom Penh, he claimed he was not given any instruction for the destruction of any of the biographies in his possession. He claimed he had no knowledge of their arrival until he heard the noise of the tanks rolling into the city and people began fleeing. He was arrested at his home in 1984 accused of being the top chief of S-21. He was detained for 4 years without trial, for a period of time in Vietnam, and later transferred to Cambodia and released in 1987.

## **Mr. Chhun Samorn**

Mr Chhun Samorn was born in 1957 in Thmei village, Ksetr commune, Kampong Rou district, Svay Rieng province, where he still lives with his family and works as a rice farmer. He testified as a Civil Party in Case 002/02.

Mr Chhun became a Khmer Rouge soldier in May 1975, and worked as a messenger in unit 75. He delivered information about enemy positions to other units. He also attended meetings on the subject. In 1976, he was sent to sector 23 and worked in the Special Unit, in charge of gathering intelligence and sometimes of planting mines. Meetings about internal matters were organized. His unit was sent to areas close to the Vietnamese border, in Svay Rieng province, where he said the fighting was fierce in 1976 and 1977, in order to collect information. Sometimes, his unit had to fight the Vietnamese Special Unit. Mr Chhun stated that the work of the Special Unit was harder than other units'. According to Mr Chhun, the



fighting intensified in 1977 and soldiers from the Central and the Southwest zones were sent in as reinforcements. At the end of 1977, East zone commanders were sent to training sessions and disappeared. The units were split by Central zone soldiers between the soldiers who had joined the revolution before and after 1975. Weapons were confiscated. Soldiers who had joined before 1975, about 300, were boarded on trucks and were sent to Veal Taprunh. The few others, including Mr Chhun, were integrated into Division 703 and asked to show landmines locations. They were then sent to the same place instead of to the Center. They were all instructed to work in rice fields and to dig holes. In 1978, Mr Chhun heard that East zone soldiers attempted a coup in the Center. Mr Chhun and his coworkers were instructed to go back to their families and villages. In Mr Chhun's village, soldiers from the Center replaced the cooperative chiefs and told his unit that they would be reenlisted after the purge. However, the witness explained that a few days after their arrival, they tied them up, called them traitors and walked them to be executed. Mr Chhun heard from someone that they were not the first group of soldiers to be sent away. At the execution site, the soldiers who were tied up were shot, but some managed to untie themselves and to flee. Mr Chhun managed to flee with two other soldiers and jumped into a river, then crossed the Vietnamese border. They were rescued by Vietnamese soldiers. The Vietnamese asked them questions and let them join their army in order to liberate Cambodia. The witness recognized a few names of cadres from his unit who were sent for study sessions and are on the S-21 OCIJ prisoners list.

After his testimony, Mr Chhun asked for justice for his family and asked the accused two questions: why they divided the soldiers between those who joined the revolution before and after 1975, and why they arrested many East zone soldiers without justice. The accused used their

right to remain silent.

### Mr. Meas Soeurn

Mr Meas Soeurn was born in 1952 in Phnom village, Rumchek subdistrict, Memot district, Tbong Khmun province and lives with his wife and children in Ta Khmau village, Ta Khmau commune, Ta Khmau district, Kandal province. He works in the Kandal provincial committee. He testified in Case 002/02.

Mr Meas stated that he joined the revolution unknowingly by running from his village into the forest in 1968. He kept fleeing until March 1970, then worked as a driver for his father, Meas Senghong, alias Chan, who, between 1970 and 1975, was deputy chief then chief of sector 21, then became the deputy chief of the East zone. Mr Meas became a member of the CPK in 1974. He got married in late 1976. After 1975, he attended a technical training session and became the deputy chief of a metal factory in the East zone, and did not see his father anymore. He often traveled between the Commerce office in Phnom Penh and his factory to transport material. According to Mr Meas, all East zone cadres including East zone leader Sor Phim were purged in May 1978. They were accused of treason and collusion with the Vietnamese. During his testimony, he gave the names of some of them. He explained that when a chief was falsely “sent to study sessions”, all his subordinates were too. His father kept his position, but went to Phnom Penh and disappeared a few months before January 1979. Mr Meas stated that at the time, his factory received letters from Phim instructing them to resist the arrests. He said that Phim believed that Son Sen was plotting against Pol Pot and Nuon Chea. Mr Meas also declared that there were some arrests prior to 1978 in his unit. He recalled one Vietnamese employee in his factory who got arrested. He also explained that Cham people in the East zone were displaced and tried to rebel. According to him, the East zone forces fought back against the Centre in 1978.



## Duch's testimony on S-21 Security Centre and Internal Purges ends

Kaing Guek Eav alias Duch's testimony at the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) that began on June 7th has come to an end after twelve days. In February 2012, Duch was sentenced to life imprisonment for crimes against humanity and grave breaches of the 1949 Geneva Convention. He then came back to the ECCC in March and April 2012 to testify in the case against Khieu Samphan and Nuon Chea in Case 002/01. Duch, 73-years-old, is currently imprisoned at Kandal Provincial Prison. His most recent testimony in Case 002/02 was largely related to events that happened at the S-21 Security Centre and Internal Purges in the Khmer Rouge regime.

A portion of Duch's testimony focused on the daily operation and organization of S-21 as well as the role the Upper Echelon of the CPK. The Witness mentioned several times that he was considered as a lower level member of the Party and that because of his position he was unaware of everything that happened in the higher ranks of the regime. He said he was the secretary of an independent regiment but many more cadres and a division were above him. His daily task as head of S-21 was to read the prisoners' confessions but he was not responsible for making decision about the fate of individual prisoners. He was questioned on interrogation techniques, the confessions of prisoners, and the treatment of detainees. He discussed the various methods of interrogation including the hot, cold, and chewing methods, the success of each method in bringing about confessions, and what was done with those confessions. Prisoners brought in were smashed after delivering their confessions, or even before if no concrete evidence was found to justify an interrogation. The Witness repeatedly mentioned the Party's policies about prisoners and the following instruction “to keep is no gain, to remove is no loss”.

Duch listed off the top leaders of the CPK, the members of the Party Centre, the roles that they played, and the authority that they had over his work and S-21. He specifically discussed Nuon

Chea and Khieu Samphan's alleged role in overseeing his work. He stated that the various forms of torture used on prisoners included beatings, electrocutions, suffocation, tearing off of nails, how heart beats were used to accuse someone of being a spy and others. Additionally, he admitted that there were instances of medical experimentation on prisoners and one case of rape. His testimony also included the treatment of women, pregnant women, children, Lon Nol soldiers, Vietnamese, Muslims, Westerners, and the sick at S-21. Duch stated, “There were never instructions not to kill children, not to kill pregnant women.” However, the Witness denied the existence of any specific policies or decisions targeting Lon Nol soldiers, Vietnamese, Cham or regarding forced marriage.

Duch was questioned extensively on internal purges among Khmer Rouge cadres. He discussed the internal purges of high ranking officials, soldiers, S-21 staff, and the East Zone. Duch admitted there was no precise rule to arrest prisoners. “Arrests made by S-21 were to be endorsed by the upper echelon” stated the Witness. Further arrests were made after names were mentioned in confessions or after being placed under surveillance. Afterwards, the Witness stated that specific treatments were given to prisoners labeled as either “important”, “non-important”, or “ordinary”. Prisoners were assigned to these groups according to their rank, the information they possessed, and from orders from the Upper Echelon. Duch also mentioned his role in keeping confessions and stated “My task was to prevent the suicide of important prisoners so that confessions would not get cut off”. For most Khmer Rouge cadres that were arrested, their spouses and children were also arrested and often killed. He confirmed the execution of prisoners' wives and children and described mass killings of prisoners in 1978. “They were treated the same way as the prisoners: they were smashed.” Duch said that all of the orders to arrest Khmer Rouge leaders and cadres came from Nuon Chea, Khieu Samphan or another high ranking leader.

# Twenty-two American high school students and teachers from Hawaii visit the ECCC

On 30 June a group of twenty-two American high school students and teachers from the East-West Center from Hawaii visited the ECCC. Their trip to Cambodia included learning about the development, history and culture of the country. Following their visit to the Killing Fields and Tuol Sleng, the students visited the ECCC and listened to the first hearing. Subsequently, Press Officer Neth Pheaktra gave them insight into the work of the court. They also listened to the presentations of the Office of the Co-Prosecutors (OCP) and the Defense Support Section. The OCP's representatives discussed their daily tasks at the tribunal and the main differences between the Court and other international trials. The students were also particularly interested in the Defense's vision on how they morally defend the accused. Their last questions focused on jobs and the turnover of ECCC's employees. Following their lectures, the group better understood the reality and complexity of the processes at the ECCC, agreeing that the court is important in bringing justice for the victims. Their teacher, Namji, was interviewed after the presentations. She emphasized the importance of showing the consequences of these atrocities to teenagers and she hopes this journey will help them to have a better vision of the world they live in.



## Decisions/Orders

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

### Trial Chamber

**2 June 2016** : Decision on NUON Chea's Request to Reconsider Admitting One Extract and to Admit Two Additional Extracts from the Human Rights Watch Report '30 Years of Hun Sen' <E347/4>

**2 June 2016** : Decision on Defence rule 87(4) requests for Admission into Evidence of 23 documents relevant to Testimony of 2-TCE-88 <E387/3>

**3 June 2016** : Decision on five written records of interview (WRIs) requested to be admitted pursuant to Internal Rule 87(4) <E319/47/2>

**3 June 2016** : Decision on written record of interview E319/42.3.3 and its annexes <E319/42/1>

**7 June 2016** : Decision on NUON Chea request to admit into evidence 12 prior statement of KAING Guek Eav alias DUCH (2-TCW-916) <E411/1>

**8 June 2016** : Decision on NUON Chea Rule 87(4) Request and Request for the Production of a Document in relation to Witness NHEM En <E398/1>

**10 June 2016** : Request for Briefing on Significance of Conflicting faction within the DK leadership <E395/1>

**10 June 2016** : Indication of Reparation Projects for Implementation in Case 002/02 <E352/2>

**15 June 2016** : Decision on the Admissibility of two German-language documents submitted by the KHIEU Samphan Defence <E305/19/2>

**16 June 2016** : Decision on designation of 2-TCE-90 <E415>

**17 June 2016** : Decision to admit into evidence excerpts of book authored by Civil Party CHUM Mey (2-TCCP-243) <E400/1>

**21 June 2016** : Decision on Co-Prosecutors' request to admit into evidence documents E319/42.3.1, E319/42.3.2 and one document underlying the OCIJ S-21 prisoner list <E319/42/3>

**28 June 2016** : Final Stages of Case 002/02 – Notice of Deadlines <E421>

**29 June 2016** : Oral decision on NC 87(4) request for admission into evidence of the VSS Report on application of 2-TCCP-236 <E419>

**29 June 2016** : Decision on International Co-Prosecutor's Requests to Admit Written Records of Interview Pursuant to Rules 87(3) and 87(4) <E319/47/3>

**30 June 2016**: Decision on Urgent Request from Co-Lawyers for Mr. IENG Sary and Mr. MEAS Muth for leave to file submissions on the testimony of expert witness Michael Vickery (E408/1) <E408/2>

### Pre Trial Chamber

On 2 June 2016, the Pre-Trial Chamber notified its Decision on Yim Tith's Notice of Withdrawal of Appeal Against the International Co-Investigating Judge's Decision on Urgent Requests to Reconsider the Disclosure of Case 004 Witness Statements in Case 002/02 (D229/3/1/4).

**On 16 June 2016**: the Pre-Trial Chamber notified its Considerations on Appeal against Decision on Ao An's Fifth Request for Investigative Action (D260/1/1/3) unanimously dismissing the Appeal and declaring that such common conclusion was reached on the basis of differing reasons and opinions, which were appended.



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

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## The Court Report

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