



The Court Report

The Extraordinary Chambers in the Courts of Cambodia

Moving forward through justice



Mr. KAING Guek Eav alias Duch (2-TCW-916) testifies before the Trial Chamber in the Courts of Cambodia in Case 002/02 against Nuon Chea and Khieu Samphan on 7 June 2016. Photo: ECCC/ Nhet Sokheng

Duch testifies on S-21 Security Centre and Internal Purges

The Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) started hearing the long-awaited testimony of former Chairman of S-21 Security Center Mr Kaing Guek Eav alias Duch on June 7th. Originally scheduled for nine days, Duch's testimony is related to the fourth topic of Case 002/02: Security Centres and Internal Purges. Duch was sentenced to life imprisonment for crimes against humanity and grave breaches of the 1949 Geneva Convention in February 2012. Soon after, he 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.

In his current testimony, Kaing Guek Eav, now 73-years-old and imprisoned at Kandal Provincial Prison, has been questioned on a wide range of topics when examined by the parties and the judges, including Nuon Chea's alleged role and responsibility in relation to S-21, the organization of the Party Center, the treatment of certain groups at S-21, medical experiments, interrogation techniques, sexual violence, the organization of S-21 and the chain of command. Furthermore, he confirmed that wives and children of prisoners were also executed.

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He described the mass killings of prisoners that occurred in 1978. Finally, when confronted with them, he challenged the recent Case 002/02 testimonies of two other former members of S-21 staff, Lach Mean and Him Huy.



Sweden pledges SEK 28 million in support for 2016 to 2019

The Government of Sweden has made a new pledge of SEK 28 million to support the international component of the Extraordinary Chambers in the Courts of Cambodia (ECCC) for the period 2016 to 2019. The amount will be evenly divided over four years.

Sweden is a key financial backer of the ECCC, and it is a member of the Principal Donors Group. The total financial assistance from Sweden preceding this new pledge amounts to US\$ 9.97 million (value at the time of conversion from SEK to US\$).

“On behalf of the ECCC, we would like to express our gratitude for the generous and continuous support offered by the Government of Sweden. We welcome the move to offer a multi-year pledge, as this will assist us in the financial planning”, said Acting Director of the Office of Administration H.E. KRANH Tony and Deputy Director Mr. Knut Rosandhaug in a statement.



Delegation from the Truth and Reconciliation Commission of Nepal Visits the ECCC

On 15 June 2016, a delegation of four people from the Truth and Reconciliation Commission of Nepal, including Dr. Narendra Man Shrestha, Secretary of the Truth and Reconciliation Commission and Head of Delegation, visited the ECCC. Accompanying him were Mr. Radhakrishna Pradhan, Joint Secretary of the Truth and Reconciliation Commission, and Mr. Dal Bahadur Adhikari, Under Secretary of the Truth and Reconciliation Commission. Attendees observed the first court hearing of the day during the testimony of Mr. KAING Guek Eav alias Duch and then met with the Acting Director of the Office of Administration, Krahn Tony, and Deputy Director of the Office of Administration, Knut Rosandhaug.

The Truth and Reconciliation Commission of Nepal seeks to publish grave human rights violations committed in the armed conflict between the State Party and the then Communist Party of Nepal from 13 February 1996 and 21 November 2006 and recommends legal action against the persons involved in those violations. They also work to provide reparations to victims and to create sustainable peace in Nepal. Their visit to the ECCC gave them insights into one type of tribunal that is pursuing legal accountability for alleged atrocity crimes. Dr. Narendra Man Shrestha commented, “It was very interesting to see the witness examination and to hear the questions that the judges chose to ask the witness.” Their visit gave them the opportunity to learn about the legal actions that Cambodia has taken towards justice and peace after the Khmer Rouge era and to bring what they learned back to Nepal.



Dr. Narendra Man Shrestha expressed how their observations at the Court will be helpful to the Truth and Reconciliation process in Nepal: “You can really see [the Court] working hard to reconcile with victims in Cambodia.” The Truth and Reconciliation Commission of Nepal focuses on supporting individual victims of grave human rights violations through reparations, employment, healthcare, and education. According to him, their visit allowed them to learn from Cambodia’s focus on supporting victims as a group. The delegation explored the importance of supporting both individual and group victims in order to bring about a peaceful society. The exchange will hopefully lead to more multifaceted and inclusive approaches to achieving justice and reconciliation in the future.

Tuol Sleng and Choeng Ek staff visit the ECCC, attend Duch's testimony

On June 7, the Director of the Tuol Sleng Genocide Museum, Mr. Chhay Visoth, and the Deputy Director of the Choeng Ek Genocidal Center, Ms. Ros Sophearavy, visited the ECCC along with more than twenty members of their staff in order to attend the testimony of Mr. Kaing Guek Eav alias Duch, the former Chairman of S-21 Security Center, which held a special significance for them. Mr. Chum Mey, a survivor of S-21, was also present. Attendees observed an afternoon hearing session, received a presentation about the proceedings from the Public Affairs Section, and met with the chief of the Victims Support Section of the ECCC to prepare a project for moral and collective reparation in relation to the bones of victims at Choeng Ek.

Appointed Director of Tuol Sleng in April 2014 after having worked at the National Museum, Mr. Visoth was visiting the ECCC for the second time. The first time was in 2009, during the case against Duch, but it was actually the first time that he got to see the former Chairman of S-21 in person. When asked what it felt like, he answered that it was a very good thing to be here: "The feeling is very different, I didn't pay attention to the proceedings at the time because I worked at the National Museum. It's very helpful and interesting because Duch was the director of S-21 and he also mentioned M13, where he worked before. I went there not long ago." Mr. Visoth is personally interested in the proceedings. He was born during the Khmer Rouge era in Banteay Meanchey province under very difficult conditions, and his mother told him stories of his family's hurdles at the time. "My father was killed by the Khmer Rouge. We never knew where he was executed. He was a former teacher and tried

to escape to Thailand with friends. He was never heard from again." His mother had to work hard during her pregnancy in order to provide enough food to her children. However, according to Mr. Visoth, she is not interested in the trials. "Some people say the trials waste a lot of time and money, which could be used to develop the country. They think that the top leaders were already sentenced after the fall of the regime." Mr. Visoth himself sees things differently: "I think the trials and the court documents can be beneficial for young Cambodians and for the country to learn from the past. Duch is brave enough to share his experience and the truth. I think he is responsible for what he did, and other leaders should act like him and accept what they did." He would like to meet Duch officially, maybe when the trials are over.

Ms. Ros Sophearavy, a graduate from the Royal University of Agriculture who has been working at Choeng Ek since 2005, also visited the ECCC for the second time. "I never saw Duch before his life imprisonment. I am impressed to see him because he looks old. He changed a lot. He looked stronger during Case 001." She specifically came to the ECCC to discuss a project of conservation of the bones of victims of the Killing Fields as a measure for moral and collective reparation with the Victims Support Section. When she joined the Choeng Ek Center, she helped develop and study the history of the place. A child during the Khmer Rouge regime, she also lost many family members to it. "This Court is a good way to look for the real killers during the Khmer Rouge times and to show the young generations who they are. It can benefit everyone. It is also a historical court for Cambodia."



The Transcultural Psychosocial Organization's Visit to the ECCC



On 16 June 2016, a delegation of seven visitors from the Transcultural Psychosocial Organization of Cambodia (TPO) led by Ms. Thlen Sokunnara, Psychologist and Project Coordinator, visited the ECCC. Attendees were briefed by Mr. Sovannarom Dim, Chief of Public Affairs Section, and then observed an afternoon hearing session in which the Civil Party Co-Lawyers presented projects for potential reparations.

The TPO Cambodia is an NGO that provides quality mental health care and psychosocial support through a multitude of treatment centers and grass-roots projects all over Cambodia. They believe that this work, along with advocacy, research, and training in the area of mental well-being, is closely tied to conflict resolution, peace building, and social justice. TPO Cambodia has visited the ECCC on many occasions to provide support to the civil parties and witnesses. Currently, the TPO is working with Cham minorities who suffered under the Khmer Rouge regime. They provide their clients with testimonial therapy, self-help groups, and other forms of emotional healing.

In order to better serve their clients, the TPO decided to make a formal visit to the ECCC. Ms. Thlen Sokunnara stated, "We have visited the ECCC a few times already. Before, we went to the ECCC to provide psychological support to the witnesses and civil parties before the hearings. This time we came because we want to understand more about the ECCC and how it functions." During their briefing with Mr. Sovannarom Dim, attendees asked specific and detailed questions about civil parties, minority victims, the inner workings of the Court, and how decisions are reached.

Through greater understanding of the Court and how it functions, NGOs that work with civil parties such as TPO, can better serve their clients and contribute to restorative justice and peace building.

Supreme Court Chamber

In May, 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 the appeal judgement.

On 19 May, the Supreme Court Chamber responded to a letter from the Civil Party Lead Co-Lawyers expressing concern about information contained in the latest revision of the ECCC's completion plan and urging the Supreme Court Chamber to issue its judgement on the pending appeals without delay. In its response, the Supreme Court Chamber reaffirmed that, when the deliberations on the appeals have been concluded, a scheduling order will be issued informing the parties of the date of the delivery of the judgement. The Supreme Court Chamber also noted that there was no procedural basis for the letter from the Civil Party Lead Co-Lawyers and that no similar filings would be entertained in the future.

Trial Chamber

The Trial Chamber sat for 5 hearing days in May 2016 and heard 3 witnesses. In addition to the previously scheduled judicial recess coinciding with Cambodian holidays, the Chamber adjourned for several weeks to permit the parties to review documents underlying a new S-21 Prisoner List compiled by the Office of the Co-Investigating Judges.

On 2 May 2016, the Trial Chamber issued a memorandum notifying the Parties of its decision not to summons witness 2-TCW-876 and Civil Party 2-TCCP-234 to testify in Case 002/02. Following WESU's report on 1 April 2016, which identified 2-TCW-876's condition, how it affects his fitness to testify and the fact that he is not seeking any treatment for his condition, the Trial Chamber decided to withdraw him from its list of witness and Civil Parties for the Trapeang Thma Dam worksite. Regarding 2-TCCP-234, following WESU's report on 7 April 2016, which identified the difficulty in contacting the Civil Party in Vietnam, the Trial Chamber concluded that it was not possible to obtain the testimony of the Civil Party within a reasonable time and decided to withdraw its summons for the Civil Party to appear for the Treatment of the Vietnamese trial topic.

Also on 3 May 2016, the Trial Chamber issued a memorandum regarding a Nuon Chea Defence request to obtain and admit into



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

evidence the Choeung Ek Study, a “forensic report” on the bones from human skeletons found at Choeung Ek. The Chamber noted that much of the report had been available in the ECCC library since January 2015 and that the Chamber had obtained the remaining volumes for review by the parties in the ECCC library. The parties were invited to provide written submissions on whether the Study, as well as an “External Program Evaluation Report” of the Study, should be admitted into evidence.

On 3 May 2016, the Trial Chamber provided an oral ruling on the Nuon Chea Defence's request for an adjournment of four weeks, with full written reasons following on 12 May 2016. In its motion of 28 April 2016 (E402), the Defence requested the adjournment to review a new S-21 prisoner list, which was produced by the Office of the Co-Investigating Judges, and the underlying documents prior to the testimony of the three remaining S21 witnesses - 2-TCW-906, 2-TCW-816 and 2-TCW-916. On 2 May 2016, the Trial Chamber heard oral responses and on the following day, admitted all the documents underlying the list which had not previously been admitted as evidence. The Trial Chamber denied the request to adjourn

prior to hearing 2-TCW-906, and thus decided to hear the full testimony of this witness as scheduled. However, the Chamber granted an adjournment of one week, from 9 to 12 May 2016, before recommencing on 23 May 2016.

On 4 May 2016, the Trial Chamber granted a Rule 87(4) request by the Nuon Chea Defence to summons a new witness, 2-TCW-1028, on the topic of internal purges and the Phnom Kraol Security Centre and to admit his DC-Cam statement into evidence.

On 6 May 2016, provided the reasons for its oral ruling of 8 February 2016 granting, in part, two Rule 87(4) requests by the Nuon Chea Defence and admitting 18 documents relevant to the testimony of expert Ysa Osman. The Chamber noted that the requests made several days prior to the scheduled testimony of the expert had contributed to the postponement of the expert's testimony. Though untimely, the Chamber nonetheless admitted 18 of the documents in the interests of justice as they related closely to material already on the Case File. It rejected 11 other documents as being irrelevant, repetitive, or outside the scope of the case.



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

On 11 May 2016, the Trial Chamber provided reasons for its oral ruling of 3 May 2016, in which it informed the parties that E3 numbers had been accorded to documents that formed the basis of the new S-21 prisoners list produced by the Office of the Co-Investigating Judges.

On the same day, the Trial Chamber requested the Nuon Chea Defence to further explain the reasoning for three motions requesting to hear 25 additional witnesses on the S-21 and Internal Purges trial topic. In particular, the Chamber requested briefing to clarify how the existence of conflicting factions within Democratic Kampuchea could provide a defence to the charges in the Closing Order or could be considered as mitigating circumstances. The Chamber established a deadline of 10 June 2016.

On 18 May 2016, the Trial Chamber informed the parties that it was unable to secure the appearance of witness 2-TCW-812 in relation to the Internal Purges trial segment, though all reasonable efforts had been made by WESU to obtain information concerning the witness.

On 19 May 2016, the Trial Chamber rejected the request by the Nuon Chea Defence to use of S-21 statements of Koy Thuon, Yim Sambath and Chea Non, except within the limited circumstances authorised by the Chamber in its decision on evidence obtained through torture (E350/8). The Chamber also rejected the Defence's alternative request for the Chamber to conduct further investigations pursuant to Rule 93 into the circumstances in which the statements were obtained.

Further on 19 May 2016, the Trial Chamber provided directions to the Parties to file any objections to the admission into evidence of two documents requested previously by the Khieu Samphan Defence, the translations of which were only recently made available to the parties. The Khieu Samphan Defence was also directed to indicate whether it maintained its request to admit one document, considering the "number of discrepancies" between the original and French translations.

On 23 May 2016, the Trial Chamber made an oral ruling admitting into evidence two written records of interview of witness

2-TCW-816, amongst a number of documents requested previously by the International Co-Prosecutor (E319/36). The parties were informed that written reasons for the oral ruling and the remaining documents in the request would follow in due course.

In the same proceedings, the Trial Chamber announced an oral ruling on the Nuon Chea Defence's request for additional time to prepare for the examination of the remaining witnesses for the S-21 trial segment. The Defence requested additional time to review the list of documents underlying the new S-21 prisoner list disclosed by the OCIJ. The Chamber granted the request in part so that the defence teams would have sufficient time to examine and study the new documents to be used as the basis for questioning upcoming witnesses in relation to Case 002/02, particularly S-21 and other facts. Hearings were adjourned until 2 June 2016.

Also on 23 May the Trial Chamber admitted the Choeung Ek Study into evidence pursuant to Rule 87(4). The Chamber decided to admit the "External Program Evaluation Report" of the Study, the preface common to each volume of the Study and the example of the osteological analysis examination. It also admitted the photographs of different implements found at Choeung Ek and charts summarising the findings of the human remains analysed in each volume. The Chamber also granted the NUON Chea defence's request to call Mr. Voeun Vuthy to question him on the methodology and the processes used in the preparation of the Study.

On 25 May 2016, the Trial Chamber provided its full written reasons for its decisions of 11 and 12 January to hear additional witnesses in relation to the Treatment of the Vietnamese topic, and to admit twelve related written records of interview requested by the Nuon Chea Defence, Co-Prosecutors and International Co-Prosecutors. The Chamber noted that the decision to hear 2-TCW-1000 brought renewed focus to the issue of the targeting of Vietnamese at sea and the Nuon Chea Defence's request to hear two further witnesses on this topic was therefore appropriate. The Chamber rejected the Co-Prosecutors' request to hear additional witnesses on the Vietnamese topic from Svey Rieng and Prey Veng provinces and a further witness on the treatment of Vietnamese at sea because it considered that these testimonies would likely be repetitious.

During the month of May, the Trial Chamber also addressed a number of issues in memoranda which were filed confidentially.

Pre-Trial Chamber

During the month of May 2016, the Pre-Trial Chamber notified its decision on case PTC04/21. Furthermore, the Chamber deliberated and decided on the matter of Yim Tith's appeal against re-issued ICIJ Bolhander's decision on Disclosure (PTC04/22) and on an appeal against the International Co-Investigating Judge's Decision on Ao An's fifth request for investigative action (PTC04/24).

The Chamber advanced the preparations for deliberations on various cases. First, one proceeding dealing with two motions for annulment, which were forwarded by the International Co-Investigating Judge on 4 November 2015 and one appeal, dated 12 January 2016, concerning his refusal to forward to the Chamber seven other such motions (PTC03/28). Second, another motion for annulment that was forwarded by the International Co-Investigating Judge on 19 November 2015 (PTC04/23).

As of the end of May 2016, the Chamber became fully briefed on Co-Prosecutor's Appeal Concerning Testimony at Trial in Closed Session, filed on 22 April 2016 (PTC04/26). The Chamber remains seised and yet to be fully briefed on Ao An's Application to seise the Pre-Trial Chamber with a view to Annulment of Investigation of Tuol Beng and Wat Angkuonh Dei and Charges relating to Tuol Beng which was referred to the Chamber on 29 April 2016 by the International Co-Investigating Judge (PTC04/27). On 6 May 2016, the Chamber was newly seised of Im Chaem's Application to Seise the Pre-Trial Chamber with a Request for Annulment of Transcripts and Written Records of Interviews (PTC04/28).

At the end of May 2016, the Chamber was seised of a total of seven appeals and motions relating to the investigations in cases 003 and 004.

Office of the Co-Prosecutors

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

Case 002/02

Trial hearings took place at the beginning of the month, with the Court hearing witnesses in relation to the trial segment dealing with S-21 Security Centre. This was followed by a recess for the King's birthday and the Chamber granting a Defence request for a



Monks visiting from Kandal Province observe the second day of testimony of former Tuol Sleng photographer Mr. Nhem En (2-T) against Nuon Chea and Khieu Samphan on 20 April 2016. Photo: ECCC/ Nhet Sokheng

break in trial to allow time to prepare for upcoming witnesses. The Co-Prosecutors filed a response to Nuon Chea's request for investigative action regarding sources relied on by Alex Hinton, an expert witness on genocide who testified before the Chamber in March, noting that the request was untimely, overly broad and that alternative measures were available. The Co-Prosecutors also filed a request to admit into evidence reports relating to conservation and preservation studies recently conducted at Choeung Ek. Additionally, the Co-Prosecutors filed a confidential response and a confidential request before the Chamber. The office's disclosure obligations also continued to be discharged, with a number of requests to disclose materials from Cases 003 and 004 into Case 002.

Cases 003

Review and analysis of the evidence collected by the Co-Investigating Judges to date was ongoing and the International Co-Prosecutor also confidentially filed a request to the Co-Investigating Judges. Additionally, in Cases 003 and 004, the International Co-Prosecutor filed a response to the International Co-Investigating Judge's call for submissions on the question of whether an attack against one's own armed forces can amount to an attack directed against a civilian population for the purposes of crimes against humanity.

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 filed five confidential requests and a confidential response before the Co-Investigating Judges, as well as a confidential reply to the Pre-Trial Chamber.

Office of Co-Investigating Judges

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

During the month of May, The legal unit has been processing investigative material, and addressing investigative requests and procedural 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.



CW-919) on Case 002/02 proceedings

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

During May, the Nuon Chea Defence Team continued to be engaged in Case 002/02 hearings on S-21 Security Centre. Alongside participation in daily hearings, the team also filed a series of motions to the Trial Chamber, as detailed below.

On 3 May, the team filed a reply to the Co-Prosecutors' response to its request to admit evidence in relation to the late King Father Norodom Sihanouk. This evidence, admission of which the Co-Prosecutors opposed, relates to the Case 002/02 trial topic concerning the treatment of the Vietnamese. The Chamber has yet to decide on this request.

On 5 May, the team filed observations on the admissibility of a Choeung Ek forensic bone study and external evaluation, a study which the team first brought to the Chamber's and parties' attention on 21 April 2016 during hearings on S-21. On 23 May, the Trial Chamber decided to admit certain parts of the study into evidence in Case 002/02.

On 9 May, the team filed a request for investigative action in respect of the expert witness and anthropologist Alexander Laban Hinton, who testified during the treatment of Vietnamese segment of the trial. The team sought for Mr. Hinton to provide it with the records of interviews he undertook and other related material used in preparation for his book *Why Did They Kill?* The Co-Prosecutors opposed the request. The Chamber has yet to issue its ruling on this regard.

On 12 May, the team filed a combined reply to the Co-Prosecutors' and Civil Party Lead Co-Lawyers' responses to the team's request to use certain S-21 Security Centre statements (i.e. "confessions") where it could be demonstrated that there was no real risk that the statements were obtained by torture. On 19 May, the Trial Chamber issued a summary decision dismissing the team's request with reasons to follow "in due course".

On 19 May, the team circulated a courtesy copy of a request to the Trial Chamber to reconsider its 3 May decision of partially granting an adjournment in trial proceeding in order to protect Nuon Chea's rights to having adequate time to prepare, to examine witnesses, and to equality of arms. The team sought, among other things, a delay in the commencement of its examination of the two last scheduled S-21 witnesses: former

documentation unit head Suos Thy and former chairman and key Case 002/02 witness Kaing Guek Eav, alias Duch. On 23 May, the parties made oral submissions on the matter. The Trial Chamber delivered its ruling on the same day, and ordered a further one-week adjournment of Case 002/02, with the proceedings to resume on 2 June 2016. On 8 June, the Trial Chamber informed the Nuon Chea Defence that it was not necessary to formally file its request as the Request had been presented orally.

On 20 May, the team requested the admission into evidence of an article published in a Rutgers University magazine in relation to expert witness Alexander Laban Hinton's testimony before the tribunal. The team argued that this article demonstrated that Mr. Hinton had already pre-judged Nuon Chea's guilt before testifying. The Co-Prosecutors also opposed this request.

Finally, on 27 May, the team filed a request to the Trial Chamber seeking the recall of one of the witnesses who testified before the Chamber on S-21 Security Centre, former S-21 interrogator Prak Khan. The team argued that it required additional time to elicit testimony from Prak Khan on a range of key issues of relevance to the charges at issue with respect to S-21 and the Defence's case overall. The Trial Chamber has yet to rule on this request.

Khieu Samphân Defence

In May 2016, the Khieu Samphân Defence Team remained fully engaged in preparing and attending the hearings in Case 002/02. The team focused on the upcoming testimonies of several important witnesses related to the S-21 security center segment, including the testimony of Kaing Guek Eav, alias Duch. Further to several requests, the Trial Chamber granted additional time in order to allow the parties to analyze extensive documents recently disclosed by the Office of the Co-Investigating Judges regarding S-21, and newly admitted in Case 002.

Throughout the month, the team also filed a request seeking the admission into evidence of new documents related to an upcoming expert witness testimony, and submissions regarding the admission into evidence of an osteological study of the Choeung Ek crime site. In addition, the team opposed a request filed by the International Co-Prosecutor to admit into evidence a number of documents issued from Cases 003 and 004.

Meas Muth Defence

In May, the Meas Muth Defence Team filed a request to reclassify submissions and

documents related to the Defence's effort to obtain UN archival material relevant to the issue of the ECCC's personal jurisdiction as public. The team also filed submissions 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 two additional 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.

Ao An Defence

In May, the Defence Team for Ao An filed the following submissions with the Office of the Co-Investigating Judges: a request for investigative action; a submission on whether an attack by a state or organization against members of its own armed forces could qualify as a crime against humanity under customary international law in 1975-1979; and a submission regarding facts under investigation in Case 004. In addition, before the Pre-Trial Chamber, the team filed a response to an appeal by the Co-Prosecutors concerning closed session testimony of Case 004 witnesses in Case 002. Finally, the team continued to review all the evidence on the Case File and prepare other filings to safeguard Ao An's fair trial rights.

Yim Tith Defence

In May, the Yim Tith Defence Team continued to analyze 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.

Im Chaem Defence

The Im Chaem Defence Team continues to review the evidence in the Case File in order to prepare Ms. Im Chaem's defence and endeavor to safeguard the client's fair trial rights in the remaining proceedings of the pre-trial stage of 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.

On 2 May 2016, the Lead Co-Lawyers filed their Response to Nuon Chea's Rule 92 Motion to Use Certain S-21 Statements, in which they requested that the Trial Chamber dismiss Nuon Chea's request to use the content of S-21 confessions on the basis that

there was a real risk that those statements were obtained through torture.

On 4 May 2016, the Lead Co-Lawyers filed a letter before the Supreme Court Chamber with respect to the rendering of the Case 002/01 Appeal Judgement. The Lead Co-Lawyers urged that a final judgement be delivered in case 002/01 without delay, owing to the advanced ages of the civil parties who have been parties to the proceedings since 2007.

Outreach and training

The Lead Co-Lawyers section continued to develop reparations projects for case 002/02 together with the Victim's Support Section and their NGO partners. Additionally, the Lead Co-Lawyers attended the Civil Party Forum in Banteay Meanchey on 12 May 2016, where 101 participants were consulted with respect to proposed judicial reparation projects for case 002/02.

Victims Support Section

Legal representation

As the evidentiary hearings of Case 002/02 still continued, 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. Additionally, they participated in meetings between civil party lawyers and Lead Co-lawyers to discuss the role of civil party lawyer in examination /crossed-examination of witnesses, experts and civil parties during the court hearing participated in the Regional Forum organized by the section in Banteay Meanchey province.

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 filed 2 request letters to continue civil action and 3 pieces of supplementary information from lawyer to the Office of Co-Investigating Judges.

Reparations and non-judicial measures

On 16 May, the team's member joined the Grand Opening of Café Yuvachun at Youth for Peace office to show VSS's support and encouragement for youth social entrepreneurship. There were around 25 participants from local and international organizations. The team's members had a few meetings with Lead Co-Lawyer Section to discuss about Case 002/02 reparation requests so as



to develop brochure and strategy for fundraising campaign.

The team's members had a meeting with Mrs. Wendy Lobwein, project coordinator of Witness/Expert Support Unit (WESU) and Miss. Nisha PATEL, international gender focal person from the Office of the Co-Investigation Judges to discuss an additional need of knowledge for the ECCC's staff from different units 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.

On 23 May, 10 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 29 Civil Parties including 21 female CPs from Kandal, Pursat, Kampong Cham, Prey Veng, Kampong Speu, Kampot, Kratie and Svay Rieng to attend hearings of Case 002/02 at the ECCC. At lunch break of each hearing day, they were also arranged to meet with



their lawyers to be briefed on what already happened and what would be discussed in the courtroom. After the hearing ended in each day, Judgment Books of Case 002/01, radios and VSS newsletters were distributed to those CPs.

As usual, 10 CPs were arranged to sit in the Courtroom along with their lawyers and the rests were in the public gallery.

On 12 May, under the financial support of Civil Peace Service (CPS)/ German Agency for International Cooperation (GIZ), Victims Support Sections and Civil Party Lead-Co

Lawyers' Section of ECCC co-organized the Civil Party Consultation Forum at Banteay Meanchey Province on Judicial Reparation in Case 002/02 with 125 participants from Banteay Meanchey, Battambang, Siem Reap, Preah Vihear and Oddar Meanchey. National Lawyers and International Lead Co-Lawyers gave the presentation on the ECCC's current proceedings, and reparations, and to answer and clarify questions or concerns from civil parties.

The purposes of the forum were (i) to inform civil parties about the developments of the ECCC's trial proceedings against NUON Chea and KHIEU Samphan; (ii) to provide opportunities for civil parties and their lawyers to discuss the issues related to the hearings of case 002/02 and proposed reparation requests case 002/02.

On 18 May, the Chief of VSS met with a representative of German Ministry of Economic Cooperation and Development (BMZ) to have a discussion about the funding of VSS for the next year.

On 20 May, the Chief of VSS went to Tuol Porchhrey, a former Khmer Rouge crime site, in Pursat province, to join a commemoration ceremony organized by local people and monks. The ceremony was conducted with the participation of provincial and communal authorities, monks, and approximately 300 villagers who lived around the area.

Decisions/Orders

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

Supreme Court Chamber

19 May 2016 : Supreme Court Chamber response to Civil Party Lead Co-Lawyers' Letter regarding: Rendering of the Case 002/01 Appeal Judgement, F33/1, 19 May 2016.

Trial Chamber

2 May 2016 : Decision on 2-TCW-876 and 2-TCCP-234 <E403>

3 May 2016 : Notice on Choeung Ek Bone Study and Warning Regarding Belated Internal Rule 87(4) Requests <E404>

3 May 2016 : Oral Ruling on NC Urgent Request for Additional Time to Prepare for the Examination of the Remaining S-21 Witnesses <E402>

4 May 2016 : Decision on Nuon Chea's First Rule 87(4) Request to Call One Additional Witness and to Admit One Interview for the

Case 002/02 Trial Segment on the Phnom Kraol Security Centre <E390/2>

6 May 2016 : TDecision on Nuon Chea's Rule 87(4) requests for admission of 29 documents relevant to the testimony of 2-TCE-95 <E367/8>

11 May 2016 : Admission of Documents Underlying S-21 Prisoners List Produced by the Office of the Co-Investigating Judges <E393/1>

11 May 2016 : Request for Briefing on Significance of Conflicting faction within the DK leadership <E395/1>

12 May 2016 : Decision on Nuon Chea Defence Request for Adjournment <E402/1>

18 May 2016 : Decision on 2-TCW-812 <E29/486/1>

19 May 2016 : Decision on Nuon Chea's Rule 92 Motion to Use Certain S-21 Statements <E399/4>

19 May 2016 : Direction to Parties to File Any Objections to Admission of D359/1.1.28 and D359/1/1.1.53 <E305/19>

23 May 2016 : Oral decision to admit documents in relation to witness 2-TCW-816

23 May 2016 : Oral decision on Nuon Chea Defence's urgent request for adjournment (S-21)

23 May 2016 : Decision on the Admission into Evidence of the Choeung Ek Study Documents <E404/4>

25 May 2016 : Decision on Motions to Hear Additional Witnesses on the Topic of the Treatment of the Vietnamese and to Admit Related Written Records of Interview (E380, E381, E382) (Full Reasons) <E380/2>

Pre Trial Chamber

25 May 2016 : PTC04/21, the Pre-Trial Chamber notified its Decision on an application for annulment of investigative actions concerning forced marriage (D257/1/8). The Chamber unanimously found the appeal admissible and declared that it could not reach a majority of votes for a decision on merit. The differing opinions of the Chamber's Judges on merit were appended as required by the Internal Rules.

TC heard evidence on Security Centers

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 May, two witnesses testified in Case 002/02 trials hearing against Nuon Chea and Khieu Samphan.



Mr. Makk Sithim
Witness 2-TCW-906

Mr. Makk Thim, previously Mr. Makk Sithim, was born on 5 April 1962 in Ta Sokh Village, Saeb Commune, Kampong Talach District, Kampong Chhang Province. He is currently a farmer living in Saeb Commune, Kampong Tralach District, Kampong Chhang Province. He testified in Case 002/02 about his work as a medic at the S-21 security center. According to Mr. Makk Thim, before he worked at S-21, he was sent to Takhmau to learn how to farm and to use weapons. After, he said, he went to Prey Sar to grow radishes. He then joined a military strategies training session, after which he was sent to many other locations before being sent to S-21. After the military strategies training session, Mr. Makk Thim said he was assigned to join a medical training session in the area of Psar Thmei for two or three months. After his medical training, he said he was sent to S-21 to work as a medic around the age of 15 or 16. According to Mr. Makk Thim, he created medicinal tablets at Takhmau which were used at S-21. His alleged duties included cleaning prisoners' bandages and distributing pills. He reported that often the medicines used for prisoners were ineffective. He said that most of the bandages were made out of mosquito nets and pic-

es of cloth. He described how they would clean the wounds with salt water that they made in the compound. Additionally he reported occasionally using injections on prisoners for swelling and numbness, although he was unsure of what specific ingredients those injections contained. He claimed that he witnessed wounds from beatings, electrocutions, and the removal of nails. He also said it was his responsibility to bury the bodies of prisoners outside the S-21 compound.



Mr. Him Huy
2-TCW-906 - 3 – 5 May

The witness said he was born in 1955 in Kbal Chrouy village, Pouthi Ban Subdistrict, 17 Kaoh Thum district, Kandal province.

The witness told he arrived at Tuol Sleng in 1976. He was first asked to be an interrogator but was not able to write so he was assigned to the guard team at a gate close to the current Beehive Radio Station. He said his main task was to receive prisoners who were brought in.

When vehicles arrived up to his gate, the witness said he or a member of his team would enter the vehicle and drive it into the compound of S-21. In other words, no one instead of S-21 staff members was allowed to enter the compound.

Then, blindfolded and handcuffed prisoners were unloaded from the trucks and sent to Suos Thy for registration and photographs.

The witness mentioned that people to be killed were assassinated by the 100 men unit under Peng direction. According to the witness, this unit was composed of more than 100 men, including messengers and guards. Prisoners were

killed once every one week or two weeks only after they gave their full confessions to the interrogators.

In 1977-1978, the witness said executions started happening at Choeng Ek because of the smell and potential leak of information of the killings.

When a truck entered, a list of prisoners was already made by Hor stating which prisoners would be sent to Prey Sar, without registration or photo, and the ones chosen to stay at S-21. Generally, the witness remembers that Vietnamese prisoners were killed into Tuol Sleng compound.

About children, the witness said he had to bring them down onto the ground floor and handed them to Peng. They were killed in Tuol Sleng Compound also. Afterwards, the mothers were transported to Choeng Ek, thinking their children were sent into a children center. Important prisoners were also killed inside of compound as Angkar did not trust people transporting them. The witness said he was responsible for transporting prisoners to Choeng Ek.

Generally, the witness said Ta Hor issued an order to him and his men to prepare a vehicle to bring about 50-100 prisoners to Choeng Ek. When he arrived there, the witness testified that prisoners were stored in a wooden house. One by one, their names were recorded by him. They were then sent away for execution. Prisoners would be asked to sit down and then they were clubbed behind on the back of their neck. Afterwards, the witness said he had to give a list of people killed to Suos Thy who had to make sure nobody escaped.

While working at S-21, the W said he was required to attend political study sessions given by Duch or Hor focusing on the distinction between the enemy and friends. They had to acknowledge that people who were arrested by Angkar were enemies. Prisoners who were brought in did not have any rights since they were accused of being enemy. So their rights were forfeited. The witness remembers that all staff members at S-21, including the guards and the interrogators, had to attend those study sessions. They were asked to monitor others and had to report to Angkar if something strange happened. Also, if people were arrested, then all those linked to his network had also to be arrested, including the wife, the family members or the mothers or fathers.

Mid-'78, the witness told he was sent to work in the rice fields in Prey Sar. He was punished at the time because Nun implicated him and mentioned he had a plan to rebel.

The witness was accompanied by a duty council.



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

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