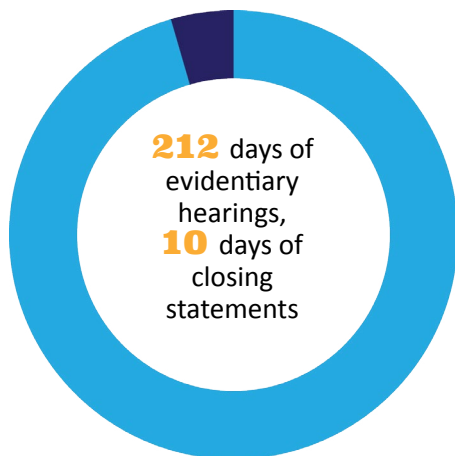


# Case 002/01

## FACTSHEET

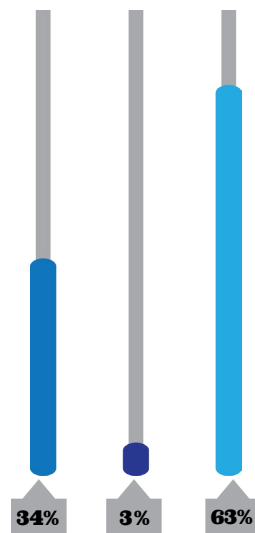
Case 002/01 is the first trial in the second case tried by the Extraordinary Chambers in the Courts of Cambodia, commonly known as the Khmer Rouge Tribunal. **Khieu Samphan** and **Nuon Chea** are the Accused in this case. Case 002/01 began on 21 November 2011 and the judgment by the Trial Chamber came down on 7 August 2014. Both the Prosecution and Defence appealed the decision; the result of their appeals will be announced by the Supreme Court Chamber on 23 November 2016.

There were  
**222** trial  
days in Case 002/01.

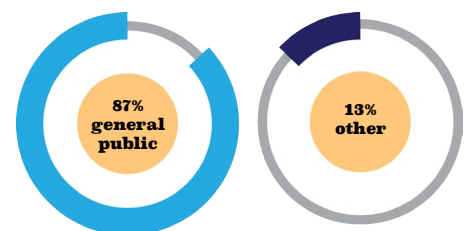


**92** testimonies  
were heard by  
the Trial Chamber.

**58** witnesses,  
**31** civil parties,  
and **3** experts.



**104,444**  
people attended the  
trial.



The general public – both Cambodians and internationals – attended the hearings. In addition, government officials, diplomats, journalists, NGO representatives and civil parties were also present.

### What are the charges?

The charges against Nuon Chea and Khieu Samphan fall under the category of crimes against humanity:

- **Murder;**
- **Extermination;**
- **Political persecution;**
- **Other inhumane acts,** in the form of forced transfers, attacks against human dignity and enforced disappearances.

The Trial Chamber's 2014 ruling on these charges is not final, until the Supreme Court Chamber's decision on the appeals is announced.



**Khieu Samphan**

Born 27 July, 1931, in Svay Rieng

Studied in France and published his doctoral dissertation on "Cambodia's economy and industrial development"

Became Head of State of the Democratic Kampuchea (DK)

Represented Democratic Kampuchea at the Paris International Conference on Cambodia in 1989

Arrested 19 November 2007



**Nuon Chea**

Born 7 July, 1926, in Battambang

Studied law at Thammasat University in Bangkok, Thailand

Became Deputy Secretary of the Communist Party in DK

Remained with the KR, reached a deal with the government that allowed him to live near the Thai border

Arrested 19 September 2007

### What was the judgement?

In August 2014 the Trial Chamber found Nuon Chea and Khieu Samphan **guilty of crimes against humanity**. In addition, they found that:

- At least two million people were forcibly transferred from Phnom Penh in April 1975 under terrifying and violent circumstances;
- At least 300-400,000 people were forcibly transferred under similarly dire conditions from September 1975 to early 1977;
- At least 250 Lon Nol soldiers were executed about a week after 17 April 1975.

# Case 002/01

## THE APPEAL

Soon after the Trial Chamber's judgment in Case 002/01 was handed down, the Defence and Co-Prosecutors filed appeals to the Trial Chamber, which were then transmitted to the Supreme Court Chamber. The Defence teams' appeals were based on alleged errors of law and fact, meaning they argue the Trial Chamber erred in how they applied the law, and the facts upon which they based their judgment. The Co-Prosecutors' appeal did not request a change in verdict, but a declaration that the third form of the mode of liability of joint criminal enterprise be applicable before the ECCC.

### How does the process work?

# 1



The trial judgment is announced by Trial Chamber. Defence and Prosecution can then file appeals, which they did. They file appeals with the Trial Chamber which are then transmitted to the Supreme Court Chamber (SCC).

# 2



The SCC considers evidence and submissions, and deliberates. The chamber has to decide whether the judgment produced by the Trial Chamber is impacted by any legal or factual errors.

# 3



To be able to announce a decision, five of the seven total judges – four Cambodian and three international – must vote together. They will announce their decision on the appeals filed on Case 002/01 on 23 November.

### Summary of the Defences' appeals

**Nuon Chea** asks for a reversal of the trial judgment, and to be acquitted of all charges.

**Khieu Samphan** asks for a reversal of the trial judgment and to be acquitted of all charges. Failing that, he would like his life sentence to be reduced to a set number of years.

#### How many grounds of appeal?

223 from **Nuon Chea**; 148 from **Khieu Samphan**.

#### What are the appeals?

- Arguments relating to the

constitutionality of the ECCC's Internal Rules and the fairness of the proceedings;

- Arguments relating to the Trial Chamber's approach to evidence;
- Arguments relating to the Trial Chamber's findings relevant to the crimes for which the Accused were convicted;
- Arguments relating to the Accused's individual criminal responsibility;
- **Khieu Samphan** is raising an appeal on arguments relating to the sentence that was imposed.

### Summary of the Co-Prosecutors' appeal

The Co-Prosecutors ask the Supreme Court to declare that the extended form of Joint Criminal Enterprise (JCE III) is applicable to the ECCC.

The Co-Prosecutors ask the SCC to find that the Trial Chamber made a mistake in ruling that the extended form of Joint Criminal Enterprise (JCE III) liability wasn't a part of customary international law in 1975.

#### Example?

- An Accused orders young soldiers to take women from their homes for the purposes of torturing them or executing them. In the course of doing so, women and girls are raped. If it can be proven that an Accused knew rape was a possible result of his criminal plan, and regardless reconciled himself with that and went forward with the orders anyway, then he could be held responsible for the crime of rape.