



# The Court Report

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



Photo: DC-Cam

**Judicial investigation against Ao An concluded and severance from Case 004 ordered**  
Read more on page 3

### Judicial updates

The **Office of the Co-Investigating Judges** continued its investigations of case 003 and case 004, the **Meas Muth Defence Team** filed one Requet, one Letter, and One Reply to OCIJ, and the **Civil Parties Co-Lawyers** examined and questioned witnesses and civil parties on various topics. These are just some of the teams – read more on **pages 3-4**.

### Testimonial summaries

Seven witnesses came before the Trial Chamber in December. They testified on topics ranging from **internal purges, bone remains, and conflict between Cambodian and Vietnamese forces** during the Khmer Rouge era. Read their testimonial summaries on **pages 6-8**.



Visitors attend a Public Hearing.  
Photo: ECCC

## The Court in numbers



**9**  
trial days



**60**  
witnesses, civil parties,

**1**

expert witness.



**Extraordinary Chambers in the Courts of Cambodia**

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## Statement by the Office of the Co-Prosecutor on Case 004/01

### Rule 54 Summary of the Co-Prosecutor's Final Submissions regarding Im Chaem

Rule 54 of the ECCC's Internal Rules provides that while the Co-Prosecutors final submissions are confidential, "mindful of the need to ensure that the public is duly informed of ongoing ECCC proceedings, the Co-Prosecutors may provide the public with an objective summary of the information contained in such submissions...." The below summary of the Co-Prosecutors Final Submissions regarding the investigation of Im Chaem is issued in accordance with this rule and the Co-Prosecutors' belief that transparency contributes to public confidence in judicial institutions.

The Co-Prosecutors filed their Final Submissions on Case 004/01, the investigation of Im Chaem, on 27 October 2016. It will now be up to the Co-Investigating Judges to decide whether Im Chaem is a person who is subject to the personal jurisdiction of the ECCC and whether the investigation has established her responsibility for crimes within the jurisdiction of the ECCC to the standard required to indict her on criminal charges and send her to trial. As with all charged or accused persons at the ECCC, Im Chaem retains the presumption of innocence which is only lifted if and when guilt is established at trial and through appeal.

The Co-Prosecutors filed separate Final Submissions in the case against Im Chaem, reflecting their separate views on the case. The National Co-Prosecutor submitted that pursuant to the ECCC's governing law, Im Chaem was not within the category of those individuals over whom the ECCC has jurisdiction as she was neither a "senior leader" of the Democratic Kampuchea ("DK") regime nor among those "most responsible" for the crimes committed during the DK regime.

The International Co-Prosecutor submitted that in his view of the evidence, while Im Chaem was not a "senior leader," she was among those "most responsible" for crimes within the meaning of the ECCC's governing law and thus the personal jurisdiction requirements were met. The International Co-Prosecutor also provided his analysis of the evidence collected in the investigation and an explanation why in his view; it establishes Im Chaem's responsibility for several serious crimes within the jurisdiction of the ECCC.



Photo: ECCC

#### *National Co-Prosecutor's submissions*

Having examined the results of the preliminary investigation and the judicial investigation concluded by the Co-Investigating Judges, the National Co-Prosecutor took a firm position that only the existing accused persons at the ECCC are senior leaders and those who were most responsible in the DK regime. Therefore, priority should be given to the trial of these accused persons to complete the court's mandate because the ECCC Law and the Agreement between the Royal Government of Cambodia and the United Nations ("UN") only foresees the prosecution of a limited number of persons.

In accordance with the ECCC Law and the Agreement in which the UN recognized the legitimate concern of the Royal Government of Cambodia and the people of Cambodia in the pursuit of justice and national reconciliation, stability, peace and security, the Co-Prosecutors are required to select only two categories of persons for prosecution: senior leaders of DK and those who were most responsible for serious violations of Cambodian criminal law, international humanitarian law and custom, and international conventions recognised by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979. Therefore, the National Co-Prosecutor took the position

that IM Chaem in Case 004/1 does not fall within the ECCC's personal jurisdiction to face prosecution.

#### *International Co-Prosecutor's submissions*

The International Co-Prosecutor acknowledged that Im Chaem never held a position as a member of the DK Standing Committee or Central Committee, she was not a Zone or Sector Secretary in the Communist Party of Kampuchea ("CPK") hierarchy and was not a high ranking officer in the CPK's military forces. The International Co-Prosecutor therefore submitted that Im Chaem was not a "senior leader" of DK within the meaning of the ECCC's governing law.

However, the International Co-Prosecutor submitted that the evidence establishes that Im Chaem fit the second criteria for inclusion within the ECCC's personal jurisdiction as she was among those "most responsible" for crimes committed during the DK regime. In his view, through her leadership positions at the district and sector levels in both the Southwest and Northwest Zones – which gave her control over numerous armed forces and the lives of tens of thousands of civilians, Im Chaem played a key role in the commission of crimes which led to many thousands of deaths.



What follows is a summary of the International Co-Prosecutor's arguments regarding why, in his view, Im Chaem is responsible for crimes against humanity and grave breaches of the Geneva Conventions. However, it will be the responsibility of the Co-Investigating Judges to make their own analysis of the evidence and determine whether there is sufficient evidence that Im Chaem is criminally responsible for the crimes alleged and satisfies the criteria for the exercise of the Court's jurisdiction to send the case to trial. This summary does not include the views of the defence, who have filed their own submissions on their view of the evidence.

The International Co-Prosecutor's Final Submission argued that Im Chaem held positions of responsibility that enabled her to make a significant contribution to crimes committed in areas where she exercised authority. Within the CPK's strict hierarchical structure of power, DK was divided in zones, which were subdivided into sectors, which were in turn subdivided into districts. Above the zone level was the Central Committee – the highest level of CPK authority. And below the district level were further subdivisions of cooperatives and villages.

Im Chaem was District Secretary (the leader of the district) in Koh Andet in Sector 13 of the Southwest Zone and later Preah Net Preah District in Sector 5 of the Northwest Zone. District secretaries were considered a crucial level of CPK leadership due to their position as a link between cooperatives and the upper levels of the Khmer Rouge. At the same time she was a district secretary, Im Chaem was a Sector 13 Committee member in the Southwest Zone and later Sector 5 Committee member then Deputy Secretary of Sector 5 in the Northwest Zone. Sector committee members were generally the third highest position in a sector and deputy secretaries were the second highest position. Sector committees had authority for all matters – military and

civilian – in their respective sectors. Roles held by Im Chaem in the Southwest and Northwest Zones were assigned to her by Ta Mok or Pol Pot, demonstrating her close links to the highest levels of the CPK and the trust that the top Khmer Rouge leaders

## Judicial investigation against Ao An concluded and severance from Case 004 ordered

The judicial investigation against Ao An in Case 004 to be concluded. They further ordered the severance of the proceedings against Ao An from Case 004 and the creation of a new case file, 004/02", Co-Investigating Judges notified all parties in Cases 004 and 004/01 on 16 December 2016.

The International Co-Investigating Judge issued a separate decision reducing the scope of the judicial investigation pursuant to Internal Rule 66 bis.

This notification marks the conclusion of over eight years of judicial investigation against Ao An for alleged crimes committed between 17 April 1975 and 6 January 1979. The judicial investigation against Ao An was initiated following receipt of the Third Introductory Submission filed by the International Co-Prosecutor on 20 November 2008. The scope of Case 004 was subsequently expanded by Supplementary Submissions filed by the International Co-Prosecutor on 18 July 2011, 24 April 2014, 4 August 2015, and 20 November 2015.

The Co-Investigating Judges ordered the severance of the proceedings against Ao An because of the charged person's right

to a determination of the charges brought against him without undue delay. Considering that the investigation against another charged person in Case 004 continues, the Co-Investigating Judges found it to be in the interests of justice to sever the proceedings against Ao An from Case 004. This will allow bringing the proceedings against Ao An to a timely conclusion while continuing the investigations in the remainder of Case 004.

The judicial investigation against Im Chaem in Case 004 concluded on 18 December 2015, was severed on 5 February 2016 to create Case 004/01, and was forwarded to the Office of the Co-Prosecutors on 27 July 2016 for final submissions. Submissions from both the Prosecution and the Defence have been received, and the Co-Investigating Judges are currently deliberating on the closing order, which is expected to be issued in the first quarter of 2017.

The investigation against Yim Tith in Case 004, who was charged by the International Co-Investigating Judge on 9 December 2015, remains open.

had in Im Chaem to implement the CPK's policies.

According to the International Co-Prosecutor's analysis, Im Chaem's responsibility for crimes in the Southwest and the Northwest Zones spanned most of the DK regime period. She was responsible for events in Koh Andet District and Sector 13 in the Southwest Zone as a district and sector official from 1976 to mid-1977. This included authority over Wat Ang Srei Mealy security office at which Khmer Krom, in particular, were targeted, imprisoned and killed in large numbers. In mid-1977, Im Chaem was chosen by the CPK hierarchy to lead purges in the Northwest Zone, resulting in a wave of arrests, imprisonment and killings of Khmer Rouge cadres and their families. From mid-1977 until the end of the DK regime in 1979, Im Chaem contributed to crimes in Preah Net Preah District and Sector 5 in the Northwest Zone using her district and sector level positions. Her contributions to

the crimes included helping to establish the Phnom Trayoung security office, one of the largest security offices in DK, as well as overseeing Chakrey, Wat Preah Net Preah and Wat Chamkar Khnol security offices. Thousands of individuals were arbitrarily arrested, detained and executed in these and other locations under her responsibility. Im Chaem also initiated construction at Spean Spreng dam and Prey Roneam reservoir and assigned many workers to Trapeang Thma dam. Thousands of individuals were forced to labour at these large irrigation projects and various other worksites under Im Chaem's responsibility in conditions amounting to enslavement. The crimes to which Im Chaem contributed included executions of persons of Vietnamese ethnicity and those perceived to be associated with Vietnam, persons connected to the Lon Nol regime and persons deemed for various other reasons to be "enemies" of the CPK. Individuals were also forced

*Cont'd on page 9*

# judicial updates

## Supreme Court Chamber

In December, the Supreme Court Chamber continued its consideration of an immediate appeal filed by the Civil Party Lead Co-Lawyers against a Trial Chamber's decision that excluded that allegations of rape committed outside the context of forced marriage are encompassed within the scope of the trial.

## Trial Chamber

The Trial Chamber sat for nine days in December 2016, hearing six witnesses and one expert. A Trial Management Meeting was also held on 8 December 2016. During the month of December 2016 the Trial Chamber issued eight public written decisions or memoranda in addition to a number of oral rulings. The Trial Chamber also issued eight confidential memoranda or decisions.

On 16 December 2016, the Trial Chamber issued a decision setting a deadline of 24 April 2017 for the filing of Closing Briefs in Case 002/02. The Trial Chamber set the following page limits for the Closing Briefs: 800 pages for the Co-Prosecutor, 550 pages each for the Defence teams and 550 pages for the Lead-Co Lawyers (including submissions on reparations). The Trial Chamber ordered that the Final Claim for Reparation was due on 22 May 2017 and that Closing Statements will commence on 5 June 2017.

## Pre-Trial Chamber

During the month of December 2016, the Pre-Trial Chamber notified two decisions related to two applications for annulment of investigative actions (PTC 04/23 and PTC 04/27), which are available on the ECCC website.

The Chamber advanced preparations for deliberations on five other cases, including: one appeal concerning the nexus between crimes against humanity and armed conflict (PTC 03/30); one appeal against decisions on disclosure of Case 004 material into Case 002 (PTC 04/29); one application for annulment of disclosure decisions (PTC 04/30); one appeal against decisions on disclosure of Case 003 material into Case 002 (PTC 03/31); and one appeal against

a decision on a request for investigative action (PTC 04/33).

Since January 2016, the Pre-Trial Chamber has issued a total of nineteen decisions and is currently seised with five cases. The Pre-Trial Chamber has yet to be seised with two upcoming appeals regarding decisions of the International Co-Investigating Judge on requests for investigative action, against which notices of appeal were filed on 14 December 2016. Next deliberations are expected to take place in January 2017.

## Office of the Co-Investigating Judges

During the month of December, the international side of the Office of the Co-Investigating Judges ("OICIJ") continued the investigations of cases 003 and 004.

No field mission took place in case 003. In case 004, one field mission was carried out, generating one interview.

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

On 16 December, the Co-Investigating Judges delivered a notice of conclusion of the judicial investigation against Ao An in Case File 004 and severed the proceedings against him into a new case file, Case 004/2.

On the same day, the International Co-Investigating Judge further issued a decision reducing the scope of the investigation under Rule 66bis.

## Defence

### Nuon Chea Defence

In December 2016, the Nuon Chea Defence Team participated in the final stages of the Case 002/02 trial.

The Defence engaged in the examination of witnesses testifying on the role of the accused, the nature of armed conflict and events surrounding internal purges.

Furthermore, the Defence participated

in the Trial Management Meeting on 8 December which addressed the final stages of Case 002/02. In this meeting, the parties discussed the length of the Closing Briefs and deadlines for their submissions, and the schedule for the hearing of Closing Statements. Moreover, the parties discussed the modalities and timing of submissions on applicable law, and the impact of the Supreme Court Chamber's Appeal Judgement in Case 002/01 on the Case 002/02 proceedings. The Defence reiterated its request for an extension of time for the deadline for submissions and the length of the Closing Brief due to the complexity of the legal issues and facts, and the number of witnesses who have appeared in Case 002/02.

### Khieu Samphân Defence

In December, the Khieu Samphân Defence Team remained fully engaged in preparing and attending the hearings in Case 002/02 regarding the armed conflict and the role of the accused.

The Defence also presented oral submissions and filed several motions.

On 9 December, the Defence presented oral submissions regarding the admission of an allegedly original document from the S-21 prison, which the Trial Chamber recently obtained from a German academic, Professor Walter Heynowski. The Defence submitted that should the document be admitted, Professor Heynowski and witnesses Duch (chairman of S-21) and Suos Thy (S-21 employee) had to be recalled in order to assist the Trial Chamber in assessing the reliability of the document.

On 15 December, the Defence filed a response to the International Co-Prosecutor's ("ICP") request seeking certification prior to the disclosure of documents from Cases 003 and 004, pursuant to a new disclosure procedure requested by the International Co-Investigating Judge (E319/63/1).

On the same day, the Defence orally responded to an ICP request to hear two new witnesses (E452). The Defence argued that the motion was untimely and in breach of the Trial Chamber's deadlines regarding new documents and new witness requests

(E421/4).

On 20 December, at the request of the Trial Chamber, the Defence filed submissions on the use of the testimony of Sar Sarin, a civil party who refused twice (in Case 002/01 and again in Case 002/02) to testify after he was examined by the Prosecution and before his examination by the Defence (E453/1).

The Defence submitted that, due to the lack of confrontation, all his statements should be considered as statements in lieu of oral testimony. Therefore, every statement related to the acts and conduct of the accused is inadmissible. Furthermore, considering Sar Sarin's behavior and unreliability, no probative value at all can be given to his other statements.

#### **Meas Muth Defence**

In December, the Meas Muth Defence Team filed one Request, one Letter, and one Reply to the Office of the Co-Investigating Judges ("OCIJ"), which have all been classified as confidential. The Defence continues to review material on the case file and to prepare submissions to protect Mr. Meas Muth's fair trial rights and interests.

#### **Ao An Defence**

In December, the OCIJ issued a Notice of Conclusion of Judicial Investigation against Ao An and an Order for Severance of Ao An from Case 004. Prior to and following the notice, the Defence filed the following: (1) Urgent Request for Page Extension; (2) Application to Seize the Pre-Trial Chamber with a View to Annulment of Written Records of Interview of Three Investigators; (3) Motion to Reconsider Decision on Filling of Responses to International Co-Prosecutor's Request for Investigative Action to Place Maps and Case 002 Materials onto Case File 004; (4) Request to Place Certain Documents Pertaining to Henri Locard on the Case File; (5) Request for Extension of Time Limit for Requesting Further Investigative Action; and (6) Request for Clarification.

It further filed three Notices of Appeals against the International Co-Investigating Judge's decisions on Ao An's seventh, tenth and twelfth requests for investigative action. Finally, the team continued to review all materials on the Case File in order to participate in the investigation and prepare other filings to safeguard Ao An's fair trial rights.

#### **Yim Tith Defence**

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

#### **Im Chaem Defence**

In December, the Im Chaem Defence Team filed a request related to the public statement issued by the Co-Prosecutors in regard to their final submissions. The Defence is currently preparing for the remaining proceedings of the pre-trial stage of Case 004/01 and endeavours to safeguard Ms. Im Chaem's fair trial rights and interests.

#### **Office of the Co-Prosecutors**

In December, staff and interns of the Office of the Co-Prosecutors were engaged across all cases, with trial hearings and litigation in case 002/02 as well as the ongoing investigations and litigation in cases 003, 004, 004/1 and 004/02.

**Case 002/02** Trial hearings took place from the beginning of the month until 15 December 2016. Witnesses testified in relation to the trial segments dealing with CPK internal purges, the role of the accused, S-21, Kraing Ta Chan Security Centre and armed conflict. Outside the courtroom, the Co-Prosecutors filed a public submission regarding the admissibility of the testimony of witness Sar Sarin, who did not complete his testimony and therefore was not questioned by the Defence. The Co-Prosecutors submitted that his testimony should be treated as an out-of-court statement, reliance on which is only precluded if it goes to the acts and conduct of the accused. In addition, two confidential requests were submitted.

**Case 003** Review and analysis of the evidence collected to date by the Co-Investigating Judges continued. Additionally, the International Co-Prosecutor confidentially filed a response to a submission from Meas Muth.

**Cases 004 and 004/01 and 004/02** Review and analysis of the evidence collected in the investigations against Ao An and Yim Tith was ongoing. The investigation against Ao An was severed from the Case 004 investigation against Yim Tith to form Case 004/02. The International Co-Prosecutor filed a confidential investigative request in

Case 004/2, and a confidential response to a request from Im Chaem in Case 004/1.

**Outreach:** Staff and interns of the Office of the Co-Prosecutors actively engaged in outreach activities. Members of the office spoke with Masters students from the Applied Conflict Transformation Studies program run by the Centre for Peace and Conflict Studies and Paññasāstra University, as well as three Australian high schools about the nature of the office's work and broader issues in international criminal justice.

### **Civil Parties Co-Lawyers**

#### **Key Legal Developments**

During the month of December, the Lead Co-Lawyers for the Civil Parties facilitated the examinations of and put questions to two witnesses on the topic of the nature of the armed conflict, one witness relating to internal purges and one expert relating who gave evidence relating to S-21 security center. Additionally, the Lead Co-Lawyers put questions to two witnesses and two civil parties – Kheav Neap and 2-TCCP-1063- in relation to the role of the Accused. On 8 December, the Lead Co-Lawyers participated in a trial management meeting discussing their position with regard to final submissions in case 002/02.

On 14 December, the Lead Co-Lawyers filed their Rule 87(4) Request to Admit a Document into Evidence (E285/2) in which they sought to admit an appendix of the second edition of Cambodia's Hidden Scars: Trauma Psychology and the Extraordinary Chambers in the Courts of Cambodia entitled 'The Mental Health Outcomes Resulting from Crimes Committed by the Khmer Rouge Regime before the Extraordinary Chambers in the Courts of Cambodia in Case 002/2'.

On 20 December, the Lead Co-Lawyers filed their Submission on the Use of Testimony by Civil Party 2-TCCP-237 (E453/2) in which they submitted that the testimony of a civil party whose testimony ended before the completion of questioning by all of the parties remains part of the public trial record and may be considered by the Trial Chamber when assessing the entirety of the evidence in Case 002, and that the weight of such testimony is to be determined at the discretion of the Trial Chamber.

#### **Activities and Outreach**

Together with the VSS and their NGO



partners, the Lead Co-Lawyers continued to participate in the development of reparation projects for case 002/02 and the implementation of judicial reparation projects for case 002/01.

## 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. In working with Lead Co-Lawyer Section, the lawyer team coordinated their civil party clients to participate in the reparation project.

Also, the lawyer team participated in 1) the Reginal Forum on the Development of ECCC's proceeding in Case 002/02 and Reparation Project of Case 02/02 at Phnom Penh, 2) second civil party consultation workshop on reparation request in case 002/02 organized by Khmer Art organization at Takmao town of Kandal Province, 3) the first and second consultation with civil parties on the remaining facts of case 002/ which have not been heard by the court organized by Lead Co-Lawyer Section at Meta House, 4) Trial Management Meeting, and 5) training on gender sensitivity in the perspective of judicial system organized by the section at Phnom Penh.



Photo: ECCC

### Processing and Analysis

During the month, the team received more 18 applications applying for cases 003 & 004. Additionally, the team filed those 18 applications and 1 power-of-attorney letter to the Office of Co-Investigating Judges. As of 31 December, there were 2041 applications in total for both cases 003&004.

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 four pieces of supplementary information indicating alleged criminal acts in cases 003 & 004 from lawyers, and filed six power-of-attorney letters and 12 pieces of supplementary information to the Office of Co-Investigating Judges. The manager of the team participated in a two-day workshop on improving cooperation in the prosecution of conflict-related sexual violence in Nuremberg, Germany, organized by the International Nuremberg Principles Academy with approximately 30 representatives of judicial mechanism and civil society organizations.

# Orders and Decisions

## Pre-Trial Chamber

PTC 04/27

On 15 December 2016, the Pre-Trial Chamber issued a decision declaring that it had not assembled the requisite majority to reach a decision on the merits of an annulment application. As required by the applicable rules, the separate opinions of the Judges were appended.

PTC 04/23

On 16 December 2016, the Pre-Trial Chamber issued a decision declaring that it had not assembled the requisite majority to reach a decision on the merits of an annulment application. As required by the applicable rules, the separate opinions of the Judges were appended.

## Trial Chamber

1 December 2016: Decision on Lead Co-Lawyers' Rule 87(4) Request Regarding Expert Peg LEVINE (2-TCE-81) <E433/4>

6 December 2016: Decision on NUON Chea's Request to Summons Patrick Heuveline and to admit two related documents <E444/1>

6 December 2016: Response to the KHIEU Samphan Defence Request for Clarification in relation to the Trial Chamber Decision E319/52/4 <E319/52/5>

14 December 2016: Decision on NUON Chea Defence Request E448 to call two additional witnesses <E448/2>

16 December 2016: Decision on Co-Prosecutors' Request to admit S-21 List of Prisoners (E393/3) <E393/4>

16 December 2016: Decision on KHIEU Samphan Request to Admit Excerpts of Documents Provided by Expert Henri LOCARD (2-TCE-90) <E447/2>

16 December 2016: Closing Briefs and Closing Statements in Case 002/02 <E449/1>

16 December 2016: Case 002/02 translation and transcription issues <E449/2>

# testimonial summaries

*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.*



## **Witness 2-TCW-1069 Sin Oeng, December 1, 5, 2016**

Sin Oeng was born on the 8th of March of 1957. He was part of a mobile unit from April 1975 until 1976, until he was taken to “a zone”, where he became a personal guard for Sao Phim. He was related to Sao Phim, as his deceased grandmother was Sao Phim’s cousin. He saw Chea Sim, who was the district officer of Ponhea Krek. The witness confirmed that Sao Phim’s daughter Sy, married to the son of the Northwest Zone committee, Ruos Nhim. He heard that Pol Pot had tried to stage a coup d’état. He did not know who initiated the coup d’état, he only knew that the Center waged arrests against the East. He added that Sao Phim said to Heng Samrin that they would fight again. He said that they had talked about gathering forces and fighting Pol Pot, just ten days before Sao Phim died. According to the witness, Sao Phim told Heng Samrin that he was going to Phnom Penh to speak to Pol Pot and “sort things out.” He was certain that he saw Nuon Chea at Suong, adding Nuon Chea slept there in the same building as Sao Phim’s bodyguards.

He was present in Sao Phim’s last trip to Phnom Penh. He recalls it was a

convoy with Mr. Oeng and other eight people (including Sao Phim), that went to Wat Ounalom. Eventually, they were ambushed outside Akrey Ksotr and Oeng managed to escape by hiding in the lakes under the water rafts. He was captured and arrested in Vihear Suork. He was recognized and subsequently released and placed in a district office, where the head officer told him that Sao Phim was alive. He later fled the place and during the journey was informed of Sao Phim’s death. According to villagers, Sao Phim committed suicide but the witness never saw the body himself. The last time he saw Sao Phim alive had been in Akrey Ksotr where they were ambushed.



## **93 year old anonymous witness 2-TCW-920 testified, Dec. 6, 2016**

Witnesses 2-TCW-920 was with the Issarak movement during the 1950s and joined the Khmer Rouge around 1966. He was assigned to work for Ruos Nhim and Nuon Chea as a messenger between Phnom Penh and Battambang. Ruos Nhim appointed him to deliver messages to Nuon Chea. He confirmed that both leaders trusted him also during Democratic Kampuchea. He became a party member.

When asked about Ta Hoeun, he said he was removed by Ruos Nhim later on. Ruos Nhim mistrusted Ta Hoeun. He did not know where Ta Hoeun was sent to. He said also Ta Chham disappeared, and that in 1975 Ta Ngon died as he rose to a divisional commander.

When asked about Ruos Nhim arrest by the Southwest, he said it was “because Ruos Nhim joined hands with the yuon.”



## **Witness 2-TCW-1070 Nuon Trech, Dec. 2, 6, 7 2016**

Nuon Trech was born in Trapeang Chuk Village in Steung Trong District, Kampong Cham Province. He joined the army when he was 15. Oeun was his Division 310 commander and Voeung his deputy. He worked as a medic before 1975, although he never received any training. He worked at the district hospital at Chamkar Leu. In 1975, he was transferred to the Zone General Staff Hospital. When Phnom Penh was liberated, he was transferred to K-99, and then to a military hospital. He was responsible for treating wounded soldiers and people with malaria. He worked there for nearly one year and was then transferred to Battalion 314. He was arrested at this place, being accused of treason.

According to the witness’ recollection, Battalion 314 and other regiments were convened to a meeting at a school north of Wat Phom. They were told that their leaders were traitors and that they should remain calm. They heard over a loudspeaker a confession of Commander Oeun. Trech returned to his unit and leaders were arrested from time to time, alongside their wives. They were told that they were reassigned to other locations. He first thought that he himself was simply reassigned to another location and not arrested. He was sent to a cell, believed to be in Tuol Sleng, until Yeat took him out. He then went back to continue working as a medic.

Afterwards he was linked to the “enemy network” and transferred to Kampong Chhnang Airfield for re-fashioning. As a prisoner, he was also told to burn explosives in the mountain and break stones to build the airport. Other prisoners working were badly injured and even killed

by the explosives. They worked from 4am until 11am. They had a break for an hour and then worked from 12pm until 5pm. They worked every night from 6pm until 10pm. He never returned to Tuol Sleng after 1979.



**Anonymous witness 2-TCW-971 testified, Dec. 9, 2016**

Witness 2-TCW-971 was a teacher in the Takeo province between 1975 and 1977, and then he became the Chairman of the Commerce Office in Ang Roka in the beginning of 1977. His work involved recording the numbers of materials brought in and taken out, including clothes and salt, but he specified there was no rice. He stated that Ta Mok, the Southwest Zone leader, had worked there for a long time and he saw his face after the coup. He recalls that he left Ang Roka for Battambang by train on the 1st of January of 1978, after he was informed by Ta Mok of the poor situation and food shortage in Battambang. However, when he got to Thma Koul in Battambang, there was no food shortage, having seen rice and sugar stored in warehouses in the market; what was scarce, however, was the food rationing. The witness explains that he was confused as to why the food had not been shared. As a result, the rice had gone bad, resulting in the food shortage. In response, he called those in charge and asked them to give the rice stored to the people on the working units, and he said the people were happy that he did that.

He was advised by Ta Chhay that people who were placed in a mobile unit should be allowed to return home. He agreed with Leng Tirith's observation that "there was something wrong going on in the province", to which he added "people did not live in proper homes and that would be violating the directive, and that people were working too hard". When asked whether Ta Thom was the Sector 3 Secretary when he arrived, he replied that the post was vacant and that he heard that Ta Thom was the sector secretary, but had never seen him and did not know when he disappeared.



**2-TCW-1070 – Mr. Nong Nim, Dec. 12, 2017**

Mr. Nong Nim is a 65 year old farmer, born in Roul Phaem village but currently residing in Ruong Sang Village. His testimony was given via video from Tbunog Khmum Province. Mr. Nim was a member of So Phim's defense unit in the East Zone from 1970-1979. He served as So Phim's driver and messenger until June 3, 1978. Mr. Nong testified about the conflict of the East Zone with the Central Zone. He was questioned at length about various visits that took place while he was on duty. He spoke of the meeting between So Phim and Pol Pot in Phnom Penh.

Mr. Nim was then questioned about So Phim's daughter, Si, who was married to Cheal. Cheal was Sector 5 chief and the son of Northwest Zone chief, Ros Nhim. Mr. Nim knew details of their marriage and shared what he remembered about the meetings that took place between So Phim and Ros Nhim. Mr. Nim provided information on the military structure in the East Zone, specifically that Heng Samrin was in charge of Division 4. He declared that he had not been involved in the liberation of Phnom Penh, but said that Heng Samrin had been. The witness had been acting as a courier, bringing messages to Samrin from the rear front to the battlefield.

Mr. Nim was questioned about the liberation of Phnom Penh, specifically in regards to So Phim's death two weeks later, on 3 June 1978. The witness did not know details of So Phim's death, however, shared what he knew about Pol Pot's coup d'état. He says he knew that Pol Pot arrested civilian people and soldiers to be killed; as such, the witness said he fled. After So Phim's death the East Zone forces fought back the center forces. The witness shared his knowledge regarding the visits of top leaders and the way in which So Phim treated them. He then further discloses information he has regarding a visit between So Phim and Pol Pot, which occurred while Pol Pot was arresting East

Zone cadre. So Phim did not go into the forest, or escape Cambodia but instead, the witness says So Phim met with people in the leadership position to find out the truth. In questioning regarding the arrest and killing of people from the East Zone, Mr. Nim explains how he witnessed his members being arrest and taken away to be killed.



**Witness: 2-TCW-823 12 December 2016**

He has four children and an adopted daughter. He married his wife in 1976, and even though he had no previous love relationship with her he said it was a mutual agreement. Ta Mut presided his wedding. He joined the Khmer Rouge Revolution in 1970, initially on a village level, but then as sector-level in the Kampot forces. He was then transferred to the Southwest Zone Forces Division 3, sent to Phnom Penh to help liberate it and then was sent to Kampong Som alongside all Division 3, where he was the commander of the Battalion 560 from the Regiment 63. He had 300 men under his command, he had to organize ammunition and food to be transported to the islands of Koh Ses or Koh Thmei. He was told he was deployed there to protect their territory, as the islands were close to the border with Koh Tral, occupied by the Vietnamese. He said there were brief attacks by Vietnamese fishing boats with weapons, which fired first and then his Battalion responded. His boats never crossed into Vietnamese waters, as it was his understanding that Cambodia shouldn't attack Vietnam. He said Regiment 63 was composed of three Battalions: Battalion 530, of which Vet was in charge, as for 540 it was Sary, and the witness was in charge of 560. He doesn't know if Vet was Eung Vet. He attended meetings at the divisional headquarters where he spoke to either Ta Mut or Brother Dim. After Phnom Pen was liberated, he attended a study session at the Olympic where he saw Son Sen. Only Pol Pot spoke during the session, which lasted 4 days, and it was about the defence and construction of the country. He was transferred to Phnom Penh in 1978, and



stayed there roughly 10 days until the Vietnamese came in, he was in charge of organizing the evacuation of the labor force. He met Khieu Samphan in Phnom Penh.



**Expert Testimony: Vooun Vuthy 2-TCE-1062, 13-14 Dec**

Vooun Vuthy was born on December 5, 1973 in Siem Reap. He lost his father and other five member of his family to the regime. He presently works for the Ministry of Fine Arts. He studied anthropology at the University of Fine Arts and then studied in Japan, Germany and Italy. He also studied at University of Hawaii in bone conversation and remains. He was involved in research regarding archeology relating to human bones in 1988. Lately, he conducted research regarding bone remains at Choeung Ek and Kraing Tang Chan, as well as Prasat Padei and Kok Prech. He has many projects, one of which was the conservation of the victim remains with the aim to maintain the evidence available with those victims' remains in order to preserve and to record the history that happened between 1975 to 1979. Another purpose was to record the remains of the marks on those victims' bones to show them about the brutality that were inflicted upon them. The process of conservation of the victims' bones as well as the analysis involves 12 stages, which begin with studying marks and traces and finally conserving the bones so they don't decay. Furthermore, they interviewed people who worked at the sites during the regime and any possible witnesses. Only at Kra Tanh Chan they preserved 6,426 craniums. His studies concluded that victims died from shackling, hit by clubs in the head, poisoned by chemicals and ear perforation.

*Cont'd from page 3*

to marry at numerous locations under Im Chaem's control, with many of these forced marriages resulting in rapes. These crimes were not isolated incidents, but occurred systematically throughout the time Im Chaem held positions of authority.

The International Co-Prosecutor argued that the crimes for which Im Chaem is responsible amount to the crimes against humanity of: murder, extermination, enslavement, imprisonment, torture, persecution and the other inhumane acts of forced marriage, rape, enforced disappearance and confinement in inhumane conditions; as well as the war crimes of: wilful

killing, inhuman treatment, wilfully causing great suffering or serious injury to body or health, wilfully depriving civilians the rights of fair and regular trial and unlawful confinement of civilians. The International Co-Prosecutor argued that Im Chaem was involved in a common criminal plan with other CPK figures to commit these crimes in both the Southwest Zone and the Northwest Zone. The crimes were committed in order to eliminate enemies and opposition to the Khmer Rouge leadership and implement the CPK's radical agrarian, economic and social policies. The International Co-Prosecutor also argued that Im Chaem planned, instigated, ordered and aided and abetted the commission of crimes, and is criminally responsible in that she was the superior of perpetrators, knew about the crimes and failed to take reasonable measures to prevent the crimes or punish those responsible.

The International Co-Prosecutor's Final Submission consisted of 136 pages of substantive analysis with an accompanying 2351 citations to evidence collected during the Co-Investigating Judges' investigation. The evidence in the Im Chaem investigation included approximately 1,450 written records of interview, as well as numerous: contemporaneous CPK and DK records; S-21 prisoner lists; Documentation Center of Cambodia interviews and documentation; trial transcripts from Cases 001, 002/01 and 002/02; photographs;

maps; and, academic books and articles. Among this voluminous evidence, the International Co-Prosecutor identified 287 Civil Party Applicants that describe crimes committed in locations that at the time were under Im Chaem's authority. Many of those victims specifically identify Im Chaem by name as a person responsible for the crimes committed against them and their relatives. In order to recognise those persons who came forward to describe their suffering, the applications were summarised and annexed to the International Co-Prosecutor's Final Submission. The International Co-Prosecutor intends to ask the Co-Investigating Judges to make his Final Submission and the defence response to his Final Submission public after appropriate redactions are made to protect the security and privacy of witnesses and victims.

The above summarises the respective views of the Co-Prosecutors. Readers are reminded that this does not include the views of the defence. Further, this summary of the Co-Prosecutor's submission is in no way intended to reflect the view of the Co-Investigating Judges, who will make their own determination of the issues.

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