



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des tribunaux cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

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Press Release

Supreme Court Chamber quashes part of the convictions, affirms life imprisonment for Nuon Chea and Khieu Samphan in Case 002/01

On 23 November 2016, the Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) pronounced its judgement on appeals against the trial judgement in Case 002/01 against Nuon Chea, former Deputy Secretary of the Communist Party of Kampuchea, and Khieu Samphan, former Head of State of Democratic Kampuchea.

The Supreme Court Chamber upheld Nuon Chea’s and Khieu Samphan’s convictions for crimes against humanity of murder, persecution on political grounds and other inhumane acts in relation to the evacuation of Phnom Penh immediately after the fall of the city on 17 April 1975. In relation to the second phase of population transfers that occurred between 1975 and 1977, the Chamber affirmed the Accused’s conviction for the crime against humanity of other inhumane acts, and entered a conviction for the crime against humanity of murder.

The Supreme Court Chamber reversed the convictions entered by the Trial Chamber for the crime against humanity of extermination in relation to the evacuation of Phnom Penh and the second phase of population transfers. It found that the evidence before the Trial Chamber in relation to the population movements did not establish beyond reasonable doubt the requisite killings on a large scale committed with direct intent.

In relation to the second phase of population transfers, the Supreme Court Chamber also reversed the Trial Chamber’s convictions for the crime against humanity of persecution on political grounds, having found that the evidence had not established that the vast majority of evacuees had been “New People”. As such, it has not been established that the transfers was, in fact, discriminatory.

While the Supreme Court Chamber confirmed that at least 250 LON Nol soldiers and officials had been executed at Tuol Po Chrey at the end of April 1975 and that therefore crimes against humanity had likely been committed, the evidence before the Trial Chamber was considered to be inadequate to reasonably substantiate a finding that, at the time of the events, there had been a policy to kill all LON Nol soldiers. Most of the evidence consists of out-of-court statements, which have low probative value. Moreover, the Trial Chamber failed to consider several pieces of evidence, which call into question the existence of a blanket policy to kill. Accordingly, the events at Tuol Po Chrey could not be imputed to

the Accused and as a result they cannot be held criminally liable for them. For that reason, the Supreme Court Chamber reversed the Nuon Chea's and Khieu Samphan's convictions for the crimes against humanity of extermination, murder and persecution on political grounds at Tuol Po Chrey.

The Supreme Court Chamber considered whether the fact that it has found errors in some of the Trial Chamber's conclusions should lead it to revise the sentences imposed by the Trial Chamber. Given that the gravity of the crimes should be reflected in the sentence, in view of the massive scale of the crimes; the complete lack of consideration for the ultimate fate of the Cambodian population, especially the most vulnerable groups; the fact that the crimes were not isolated events, but occurred over an extended period of time; and the significant roles of the Accused, the Supreme Court Chamber concluded that the imposition of a life sentence for each of the Accused was appropriate and therefore confirmed the sentence imposed by the Trial Chamber.

An appeal by the Co-Prosecutor's limited to seeking declaratory relief on the applicability of the most extended form of joint criminal enterprise (JCE) before the Extraordinary Chambers in the Courts of Cambodia, was found inadmissible. The appeals brought by the Accused have, nevertheless, seized the Supreme Court Chamber with the questions related to the notion of JCE, including aspects raised by the Co-Prosecutors' appeal.

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