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Long road to day of reckoning James O'Toole & Cheang Sokha July 23, 2010

On Monday morning, hundreds of journalists, diplomats, government officials and Khmer Rouge-era survivors will descend on Cambodia's war crimes tribunal in Phnom Penh for the historic verdict in its first case, that of Tuol Sleng prison chief Kaing Guek Eav, alias Duch.

United Nations court spokesman Lars Olsen said all major TV and radio stations in Cambodia would be broadcasting the event live, with more than 300 media representatives from around the world scheduled to attend. So what is it listeners and viewers can expect when they tune in?

Proceedings at the Extraordinary Chambers in the Courts of Cambodia are scheduled to begin at 10am, and Olsen said the session was not expected to extend "beyond lunchtime". Trial Chamber President Nil Nonn is scheduled to read out a summary of the judgment, and Olsen said it was "not foreseen that the format of the hearing will allow various parties to speak".

This means that unless judges grant Duch a special request to speak, he will not be heard before the Trial Chamber on Monday.

Anne Heindel, a legal adviser with the Documentation Centre of Cambodia, said that after presenting an analysis of the case and of the charges Duch faces under domestic and international law, Nil Nonn would then likely devote "some significant time explaining how they arrived at the sentence" before finally announcing the sentence itself.

In the event of a guilty verdict – which appears inevitable – Duch "would eventually be handed over to the Cambodian authorities", Olsen said.

"If he is convicted, he will stay at the ECCC detention centre until there has been a

finalised agreement between the ECCC, represented by the prosecutors, and the Cambodian authorities,” Olsen said. The detention centre itself, he added, was under the control of the Ministry of Interior, with the ECCC covering only the cost of food.

Parties to the case have 30 days from Monday’s verdict to give notice if they wish to file appeals to the tribunal’s Supreme Court Chamber. If they choose to do this, they will be granted an additional 60 days to file the appeals.

Civil parties can appeal against a ruling on reparations only if the prosecution chooses to challenge the judgment. A decision on reparations may accompany a guilty verdict, though it is not yet clear what forms such reparations might take.

Because there is no death penalty under Cambodian law, Duch faces a maximum sentence of life in prison. During closing arguments, prosecutors requested a 40-year sentence, citing as mitigating factors the five years of unlawful detention Duch spent in a military court following his arrest in 1999, and his “general cooperation, limited acceptance of responsibility, his conditional remorse and the possible effect it may have on national reconciliation”.

Their request, however, was delivered before Duch’s surprise bid for an acquittal during closing arguments. The stunning turnabout, a departure from the defence team’s strategy throughout the trial, “should aggravate his sentence”, international co-prosecutor Andrew Cayley said in May.

Chum Mey, 78, and Bou Meng, 69, both Tuol Sleng survivors who testified tearfully before the court in June, said that although they understood the court would be considering mitigating circumstances, they hoped to see Duch receive life imprisonment nonetheless.

“The international prosecutor requested that the chamber give Duch a 40-year sentence,” Chum Mey said. “This is the law, and the court even has the right to punish Duch for only five or 10 years, but our hope is to see Duch face life imprisonment.”