

# The Phnom Penh Post

## **Duch prosecutors appeal against 'inadequate' term James O'Toole & Cheang Sokha August 17, 2010**

Prosecutors at the Khmer Rouge tribunal will appeal against the jail sentence handed down last month against Tuol Sleng prison chief Kaing Guek Eav, joining the chorus of victims who believe the 35-year term is unacceptably short.

In a statement released yesterday, co-prosecutors said the judgment against the accused, better known as Duch, gave “insufficient weight to the gravity of Duch’s crimes and his role and his willing participation in those crimes”.

Mitigating circumstances, including Duch’s expressions of remorse during the trial and his cooperation with the court, were given undue weight in the sentencing, the prosecutors said.

“The co-prosecutors submit that the sentence imposed on Duch is arbitrary and manifestly inadequate and fell outside the range of sentences available to the Trial Chamber in the circumstances,” the notice said.

International co-prosecutor Andrew Cayley yesterday asked for patience from those upset by the brevity of Duch’s sentence.

“We are listening to them and we are doing everything we can within the limits of the law to express their desires before the court,” Cayley said.

Prosecutors requested during closing arguments in November that Duch be given a 40-year jail term.

Chum Mey, 79, a civil party in Case 001 and one of the few survivors of Tuol Sleng prison, said he was thankful that the prosecutors were pursuing a longer jail term for Duch. With credit for time served, the Khmer Rouge jailer stands to spend just 19 more years in prison, and could walk free if he survives to age 86.

“I applaud the prosecutors for filing an appeal on behalf of the victims.... Nineteen more years in jail for Duch cannot be accepted.”

Because prosecutors have appealed, the 66 civil parties whose claims were accepted in the judgment can now appeal against the court’s decision on reparations. The judges granted requests from the accepted civil parties that their names be included in the final judgment and that the court compile and publish all statements of apology made by Duch during the trial.

Other requests, such as calls for a memorial stupa or monetary compensation, were rejected because they either lacked specificity or were beyond the scope of possible reparation options available under the court’s jurisdiction.

“We are still in the process of examining the judgment, [and] if there are grounds for appeal against the reparation order,” said Silke Studzinsky, one of a number of civil-party lawyers.

Duch’s attorneys also plan to challenge the judgment, though they have yet to formally file an appeal notice.

Defence lawyer Kang Ritheary said yesterday that his team would make its filing soon and argue that Duch’s relatively low rank within the regime put him outside the court’s mandate.

Under court rules, the prosecutors now have an additional 60 days to formally file their appeal.

Cayley said he expected that the appeal hearings, to be held before the Supreme Court Chamber, would be open to the public.