



ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia  
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia  
Nation Religion King  
Royaume du Cambodge

<p><b>ព្រះមហាក្សត្រ</b></p> <p><b>ORIGINAL DOCUMENT/DOCUMENT ORIGINAL</b></p> <p>ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception): ..... ១៩ / ០៦ / ២០១១ .....</p> <p>ម៉ោង (Time/Heure) : ..... ១៤ : ៥០ .....</p> <p>មន្ត្រីទទួលបន្ទុកសំណុំរឿង / Case File Officer/L'agent chargé du dossier: ..... DAN N. BADA .....</p>
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អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber  
Chambre de première instance

**WRITTEN RECORD OF PROCEEDINGS**

**PUBLIC**

Case File N° 002/19-09-2007-ECCC/TC

27 June 2011  
Initial Hearing - Day 1

Prepared by: SE Kolvuthy and Natacha WEXELS-RISER

<b>Attendance Record</b>
<b>Before:</b> Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge THOU Mony.
<b>Reserve Judges:</b> Judge YOU Ottara (Reserve) and Judge Claudia FENZ (Reserve)
<b>Greffier/s:</b> Mrs. SE Kolvuthy, Ms. Natacha WEXELS-RISER, Mr. DUCH Phary.
<b>OCP:</b> Mrs. Chea Leang, Co-Prosecutor; Mr. Andrew Cayley, Co-Prosecutor; Mr. William Smith, Deputy Co-Prosecutor; Mr. Chan Dararasmey, Deputy Co-Prosecutor; Mr. Pich Sambath, Senior Assistant; Mr. Chea Phalla, Investigator, Mr. Phann Sochea, Greffier.
<b>Accused:</b> Mr. Nuon Chea (morning); Mr. Ieng Sary; Mrs. Ieng Thirith (morning); Mr. Khieu Samphan.
<b>Defence for the Accused:</b> Mr. Son Arun, Co-Lawyer; Mr. Michiel Pestman, Co-Lawyer; Mr. Victor Koppe, Co-Lawyer; Mr. Andrew Ianuzzi, Legal Consultant; Mr. Jasper Pauw, Legal Consultant; Mr. Phalla Prum, Case Manager; Ms. Annebrecht Vossenberg, Legal Consultant; Mr. Sa Sovan, Co-Lawyer; Mr. Jacques Vergès, Co-Lawyer, Ms. Seng Socheata, Case Manager; Ms. Marie Capotorto, Legal Consultant, Ms. Shéhérazade Bouarfa, Legal Consultant; Mr. Phat Pouy Seang, Co-lawyer; Ms. Karlijn Van der Voort, Legal Consultant (on behalf of Co-lawyer); Mr. Khan Sereyvuthy, Casemanager; Ms. Vera Mannuello, Legal

Consultant; Mr. Ang Udom, Co-lawyer; Mr. Michael G. Karnavas, Co-lawyer; Ms. Tanya Pettay, Legal Consultant; Mr. Neville Sorab, Legal Consultant; Mr. Mosseny So, Case Manager; Mr. Joshua Kern, Legal consultant.
<b>Civil Parties:</b> Mr. Pich Ang, Lead Co-lawyer; Ms. Elisabeth Simonneau-Fort, Lead Co-lawyer; Ms Moch Sovannary, Civil Party Lawyer; Ms. Martine Jaquin, Civil Party Lawyer; Ms. Silke Stuzinsky, Civil Party Lawyer; Mr. Olivier Bahougne, Civil Party Lawyer; Ms. Lyma Nguyen, Civil Party Lawyer; Mr. Pascal Aubouin, Civil Party Lawyer; Mr. Christine Martineau, Civil Party Lawyer; Ms. Fabienne Trusses-Naprous, Civil Party Lawyer; Ms. Philipine Sutz, Civil Party Lawyer; Mr. Emanuel Jacomy, Civil Party Lawyer; Mr. Hong Kimsuon, Civil Party Lawyer.
<b>Courtroom Officer/CMS:</b> Mr. Uch Arun.
<b>Others:</b> Ms. Julie Massé, Mr. Nol Dara, Mr. San Kiri, Mrs. Franziska Eckelmans, Ms. Susan Lamb, Mr. Zhao Long, Mr. Joshua Rosensweig, Mr. Ulrich Forster.

<u>General court times</u>		
Day	Start time: 9:00	Finish time: 16:10
Recess am	Start time: 10:25	Finish time: 10:50
Recess	Start time: 12:00	Finish time: 14:05
	Total Court Time:	4 hours and 40 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Recognition of foreign lawyers	Defence for Khieu Samphan and Civil Parties	9:05	9:20
Announcement of tentative list of witnesses, Civil Parties and experts for the first phases of the trial and related issues	Trial Chamber	9:20	10:07
Preliminary requests and comments	Defence for Nuon Chea	9:23	9:41
Announcement of future hearings	Trial Chamber	10:07	10:22
Request to respond to Nuon Chea Defence	Co-Prosecutors	10:50	10:51
Requests leave so Ieng Thirith can return to the Detention Facility	Defence for Ieng Thirith	10:51	10:53
Requests for clarification concerning witness list	Defence for Nuon Chea	10:53	10:58
Request for leave to leave the courtroom for bathroom breaks	Defence for Khieu Samphan	10:58	11:03
Preliminary Objection on Ne bis in idem	Ieng Sary Defence	11:06	11:57

Discussion concerning the Accused's attendance hearings	Trial Chamber	14:05	14:51
Response to Nuon Chea's comments	Co-Prosecutor	14:57	15:04
Response on Preliminary Objection (Ne bis in idem)	Co-Prosecutors	15:05	15:43
Request for Civil Party Lawyers to make submissions Moch Sovannary and Martine Jacquin and response on Preliminary objection (ne bis in idem)	Civil Parties	15:44	16:09

**Summary of Proceedings:**

The President declares the opening of the hearing.

**Recognition of Foreign Lawyers (Rule 22(2)(a))**

Mr Jacques VERGÈS is introduced by the Cambodian Co-Lawyer and recognised by the Trial Chamber for these proceedings.

Ms. Martine Jacquin; Ms. Silke Studzinsky, Mr. Olivier Bahougne, Ms. Lyma Nguyen, Mr. Pascal Aubouin, Ms. Christine Martineau, Ms. Fabienne Trusses-Naprous, Ms. Philippine Sutz and Mr. Emmanuel Jacomy, are introduced by the national Lead Co-Lawyer for Civil Parties and recognised by the Trial Chamber for these proceedings.

**Announcement of tentative list of witnesses, Civil Parties and experts for the first phases of the trial**

The Chamber distributes the confidential list of witnesses, experts and Civil Parties to the parties.

**Preliminary requests by the Nuon Chea Defence**

The Defence requests permission for Nuon Chea to wear a hat and sunglasses; and for Nuon Chea's team to have a bigger desk. The first two requests are granted. The third request will be considered in due course.

The Nuon Chea Defence claims that the investigation was unfair and that all the witnesses they have sought to call be heard.

Nuon Chea requests to leave the courtroom and indicates he will return to the courtroom when the Chamber considers his requests.

**Announcement of tentative list of witnesses, Civil Parties and experts for the first phases of the trial (contd.)**

The Chamber asks if any party would object to the discussion on witness lists taking place in public or if they propose that the Chamber go into closed session during its final day, when the provisional witness, Civil Party and expert lists will be discussed.

The international Lead Co-Lawyer for Civil Parties requests the opportunity to explain why lists of Civil Parties have not been submitted. The Chamber indicates that these issues will be discussed on the last day of the Initial Hearing.

The Defence for Ieng Sary requests that the witness discussion be held in open court without any names being disclosed.

The Defence for Khieu Samphan requests a closed session as some of its witnesses have not received pseudonyms.

The Co-Prosecutors agree with conducting the witness discussion in public as long as pseudonyms are used.

The Co-Lead lawyers for Civil Parties have no objection to the witness lists being discussed in public and indicate that they will file on Thursday 30 June additional reduced lists of Civil Parties to be heard.

#### Announcement of future hearings

The Chamber informs the parties of hearings related to other issues, including on the Accuseds' fitness to stand trial. Should such hearings be necessary, they will likely be held in August.

The Defence for Ieng Thirith objects to the medical assessment of Ieng Thirith being filed confidentially on the case file.

The Defence for Ieng Sary requests additional time to respond to Co-prosecutors' motions. It further requests that a deadline be set after which no jurisdictional issues may be filed.

The Co-Prosecutor requests that the current time-limits for response to their motions be maintained.

#### Requests leave so Ieng Thirith can return to the Detention Facility

The Defence for Ieng Thirith requests permission for her to return to the Detention facility. The Chamber grants the request.

#### Requests for clarification concerning witness list

The Defence for Nuon Chea requests clarification as to which witnesses will be discussed on the last day of the Initial Hearing.

#### Requests leave so Khieu Samphan

The Defence for Khieu Samphan requests him to be allowed to leave the courtroom for bathroom breaks. The request is granted.

#### Preliminary Objection (Ne bis in idem)

The Defence presents its preliminary objection on Ne bis in idem.

#### Discussion concerning the Accused's attendance of the hearing

The Chamber recalls Rule 81(3), (4) and (5) and indicates that the Accused's presence is required during the proceedings. The Chamber may grant permission to the Accused to be absent from the courtroom upon reasoned request. The Accused may then follow the proceedings from the holding cells.

The Defence for Khieu Samphan asks for permission for Khieu Samphan to follow the proceedings from the holding cell to save energy for the next days. The Chamber rejects the request.

The Defence for Ieng Sary asks for permission for Ieng Sary to follow the proceedings from the holding cells due to back pain. The Chamber grants the request.

The Chamber indicates that the Accused should come every morning to the courtroom. Should they wish to follow the proceedings from the holding cells, they may make a reasoned request.

Co-Prosecutors' Response on Preliminary Objection (Ne bis in idem)

The Co-Prosecutors make their submissions in response to the Preliminary Objection on Ne bis in idem.

Civil Parties' Response on Preliminary Objection (Ne bis in idem)

The Lead Co-Lawyers request Civil Party Lawyers Moch Sovannary and Martine Jacquin to make the submissions on their behalf. The request is granted and the two Civil Party Lawyers present their response to the Preliminary Objection.

Oral Orders/Decisions:

Order to bring Ieng Thirith back to the Detention facility and the AV unit to connect the AV link to the Detention Facility so she can follow the proceedings (10:51).

Order to bring Ieng Sary to the holding cell and the AV unit to connect the AV link to the holding cell (14:49).

Order to bring the Accused back to the Detention facility and bring them back to court for the Hearing on 28 June 2011.

Orders for Adjournment of Hearing

The hearing will resume on Tuesday 28 June 2011 at 9:00. *SE. NUN*

Phnom Penh,  
27 June 2011

*SE Kolvuthy*

Greffier  
SE Kolvuthy



*W. Riser*

Greffier  
WEXELS-RISER