



**ឯកសារដើម**  
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):  
23 / 12 / 2011

ម៉ោង (Time/Heure) : 15:00 ព្រះរាជាណាចក្រកម្ពុជា

មន្ត្រីទទួលបន្ទុកសំណុំរឿង / Case File Officer/L'agent chargé du dossier: Ratanak 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  
Nation Religion Roi

**អង្គជំនុំជម្រះសាលាដំបូង**

Trial Chamber  
Chambre de première instance

**WRITTEN RECORD OF PROCEEDINGS**

**PUBLIC**

**Case File N° 002/19-09-2007-ECCC/TC**

**5 December 2011**

**Substantive Hearing on evidence - Day 4**

Prepared by: DUCH Phary and Matteo CRIPPA

<b><u>Attendance Record</u></b>
<b>Before:</b> Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge YOU Ottara.
<b>Reserve Judges:</b> Judge THOU Mony (Reserve) and Judge Claudia FENZ (Reserve)
<b>Greffier/s:</b> Mr. DUCH Phary, Mr. DAV Ansan, Mr. Matteo CRIPPA, Mrs. Faiza ZOUAKRI.
<b>OCP:</b> Ms. CHEA Leang; Mr. Andrew CAYLEY; Mr. Dale LYSAK; Mr. SENG Bunkheang; Mr. HUOT Veng.
<b>Accused:</b> Mr NUON Chea, Mr. IENG Sary, Mr. KHIEU Samphan
<b>Lawyers for the Accused:</b> Mr. SON Arun, Mr. Michiel PESTMAN, Mr. Andrew IANUZZI, Mr. PHALLA Prum, Mr. KONG Sam Onn, Mr. Arthur VERCKEN, Mr. ANG Udom, Mr. Michael G. KARNAVAS.
<b>Lawyers for the Civil Parties:</b> Mr. PICH Ang, Ms. Elisabeth SIMONNEAU-RORT, Ms. MOCH Sovannary, Mr. HONG Kimsuon, Mr. Pascal AUBOIN, Ms. Christine MARTINEAU, Mr. VEN Pov, Mr. SAM Sokong
<b>Witness:</b> None
<b>Others:</b> Courtroom officer, transcribers; Ms. Seynabou DIOP, Mr. MEACH Sovanna, Mr.

Dejan BERBEROVIC, Mr. Xavier FERRAND, Ms. Jin CHIEN, Ms Diana ELLIS.

**General court times**

Day	Start time: 9:05	Finish time: 15:20
Recess am	Start time: 10:30	Finish time: 11:00
Recess	Start time: 12:00	Finish time: 13:30
Recess pm	Start time: 14:40	Finish time: 15:00
	Total Court Time:	3 hours and 40 minutes

**Proceedings**

Type of Issue	Raised By	Start time	Finish time
Recognition of foreign civil party lawyer	Trial Chamber	9:06	9:09
Reading of the Closing Order	Trial Chamber	9:27	10:16
Agreed facts	Co-Prosecutors, Defence	10:16	10:19
Application regarding admission of documents and review of prior statements	NUON Chea Defence	10:19	10:25
Application regarding the presence of civil parties and witnesses during testimonies	IENG Sary Defence	10:25	10:30
Examination of the Accused NUON Chea	Defence, Trial Chamber	11:00	15:18
Recognition of foreign defence lawyer for KHIEU Samphan	Trial Chamber	13:33	13:36
Request regarding NUON Chea's reference notes	Co-Prosecutors, Defence	13:36	13:38
Disposition of Defence Applications	Trial Chamber, KHIEU Samphan Defence	13:38	13:47
Request to adjourn examination	NUON Chea	15:18	15:19

**Summary of Proceedings**

**Recognition of international civil party lawyer**

Pursuant to Rule 22(2)(a) of the Internal Rules, the Trial Chamber recognized Christine MARTINEAU as civil party lawyer for the purposes of the proceedings before the Chamber.

**Reading of the Relevant parts of the Closing Order**

The Greffiers read the following relevant paragraphs of the Closing Order for the first phase of the trial: 18 to 32; 862 to 868; 1577 to 1579; 994 to 1000; 1091; 1585 to 1588;

1126 to 1130; and 1598 to 1600.

**Agreed facts**

The Co-Prosecutors indicated that to their knowledge, there were no agreed facts between the parties. The Chamber reminded the parties of Document E9/21.3 whereby agreed facts were proposed. Co-Prosecutors indicated that they indeed proposed a list of agreed facts to which IENG Sary Defence responded, but there has been no further defence response.

**Application by the Defence NUON Chea**

*1) Admission of documents (E141)*

The Defence objected to the documents referred to in the footnotes of the Closing Order as considered to be put before the Chamber. The Defence, however, indicated that it would agree with the Co-Prosecutors' proposition in their consolidated response to its motion concerning the admission of documents.

*2) Review of witness's prior statements*

The NUON Chea Defence objected to the review of their prior statements by witnesses/civil parties summoned before the Chamber in order to refresh their memories. The Defence considered that no detailed reasoning has been provided for the Chamber's ruling communicated in document E141 and requested the stay of the Chamber's decision, pending a decision on the Defence's oral motion.

**IENG Sary Defence application concerning the presence of civil parties and witnesses during the testimonies**

The Defence requested that the Chamber indicate whether civil parties/witnesses who have not yet given testimonies are allowed to observe the testimony of other civil parties/witnesses and interact with them. The Lead Co-Lawyers for the civil parties responded to the Defence's request.

**Examination of the Accused NUON Chea**

The Chamber questioned the Accused NUON Chea.

**Recognition of international Defence counsel for KHIEU Samphan**

Pursuant to Rule 22(2)(a) of the Internal Rules, the Trial Chamber recognized Arthur VERCKER as Defence lawyer for KHIEU Samphan for the purposes of the proceedings before the Chamber.

**Request to add NUON Chea's notes to case file**

The Co-Prosecutors requested that NUON Chea's notes relied on during his questioning be placed on the case file. NUON Chea Defence consented. The notes were filed as E148.

**Trial Chamber disposition of Defence Applications**

*1) Admission of documents (E141)*

The Chamber indicated that once paragraphs of the Closing Order are read, the documents cited in the footnotes are considered to be put before the court. However, parties will be given an opportunity to raise objections regarding the authenticity of documents. If necessary, the Chamber will schedule hearings to address such objections.

**2) Review of witness's prior statements before being summoned by the Chamber**

The Chamber indicated that, through WESU, it will provide their prior statements to the summoned witnesses. Witnesses already have access to prior statements, as copies were provided to them when statements were taken. Witnesses will not be permitted to keep their statements after giving testimony.

**3) Attendance of Proceedings by Civil Parties, Witnesses, and Experts**

The Chamber indicated that Rule 88(2) does not limit the right of civil parties to be present at proceedings. To the extent possible, Witnesses and experts are permitted to observe the testimonies of other witnesses in the public gallery.

**Request to adjourn examination until tomorrow**

On two occasions, NUON Chea requested to adjourn the examination due to fatigue. The Chamber denied the initial request, but granted the adjournment on the second request.

**Record of Rule 87.3 Proceedings**

TC Ref No.	OCIJ Ref No.	Name/Description	Class. (S, C or P)	Remarks
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Due to its length, the record of Rule 87.3 proceedings is attached to this written record as a separate table

**Oral Orders/Decisions:**

- Order granting NUON Chea's request for adjournment of proceeding until tomorrow


**Orders for Adjournment of Hearing**

The hearing will resume on 06 December 2011 at 9:00am.

Phnom Penh, 5 December 2011

Greffier

Greffier


  
 DUCH Phary 
  
 JUST Matteo CRIPPA 