



ឯកសារដើម
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ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):
04 / 04 / 2012

ម៉ោង (Time/Heure) : 15:00

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

E1/50

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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

19 March 2012

Substantive Hearing on evidence - Day 38

Prepared by:

SE Kolvuthy and Natacha WEXELS-RISER

<u>Attendance Record</u>
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge YOU Ottara.
Reserve Judges: Judge THOU Mony (Réserve), Judge Claudia FENZ (Réserve).
Greffiers: Ms. SE Kolvuthy, Ms. Natacha WEXELS-RISER, Mr. DAV Ansan
OCP: Mr. VENG Huot, Mr. William SMITH, Mr. SENG Bunkheang, Mr. PICH Sambath, Mr. Dale LYSAK, Ms. Golriz GHARAMAN.
Accused: Mr. KHIEU Samphan; Mr. NUON Chea; Mr. IENG Sary.
Defence for the Accused: Mr. Michiel PESTMAN, Mr. Andrew IANUZZI; Mr. Jasper PAUW; Mr. KONG Sam Onn, Ms. Anta GUISSSE; Mr. ANG Udom, Mr. Michael G. KARNAVAS, Ms. Diana ELLIS.
Civil Parties: Mr. PICH Ang, Ms. Elisabeth SIMONNEAU-FORT, Mr. LOR Chunthy, Mr. HONG Kimsuon, Mr. Barnabé NEKUIE, Ms. TY Srinna, Mr. VEN Pov, Ms MOCH Sovannary, Ms Lyma NGUYEN, Ms SIN Soworn.
Others: Mr. UCH Arun; Mr. Dejan BERBEROVIC; Mr. Philippe GOUT.

General court times		
Day	Start time: 09:00 a.m.	Finish time: 04:15 p.m.
Recess am	Start time: 10:05 a.m.	Finish time: 11:00 a.m.
Recess	Start time: 11:10 a.m.	Finish time: 02:10 p.m.
Recess pm	Start time: 03:00 p.m.	Finish time: 03:20 p.m.
	Total Court Time:	3 hours

Proceedings			
Type of Issue	Raised By	Start time	Finish time
NUON Chea's statement and request, and observations by the parties	NUON Chea's Defence Civil Parties OCP	09:14	10:00
Trial Chamber's questioning of NUON Chea	Trial Chamber	09:37	11:06
Accused's waiver of their right to be present and request to follow the proceedings from the holding cell.	IENG Sary's Defence NUON Chea Defence	10:05 12:03	10:05 12:03
Request relating to the right to remain silent	OCP	11:09	02:10
Trial Chamber's statement	Trial Chamber	02:12	02:18
Questioning of witness Duch	TC, OCP	02:18	04:02
Discussion on OCP's request to present relevant documents from Case 001	OCP, Civil Parties Defence for NUON Chea and IENG Sary	04:02	04:15

Summary of Proceedings

NUON Chea's statement and request:

NUON Chea made an oral statement on the necessity to address facts before 1975 and after 1979 and requested the Chamber to do so. The Co-Prosecutor and Civil Parties presented observations on the request.

Trial Chamber's questioning of NUON Chea:

The Trial Chamber attempted to question NUON Chea on the segment of Administrative and communications structures, and roles of the Accused. NUON Chea invoked his right to remain silent until the Chamber had decided on his above request.

Trial Chamber's statement:

The Trial Chamber recalled the events of the morning and stated that it appeared that the co-counsel for Nuon Chea's actions were contrary to his duties as counsel to the Court. The Chamber stated that this conduct raised serious ethical issues and that it would consider what future action in relation to these events it might take.

Request relating to the right to remain silent:

OCP referred to its prior motion in relation to KHIEU Samphan as to the consequences of providing statement to the Court and then refusing to answer questions (document E174). OCP stated that that issue now also apply to NUON Chea. The Trial Chamber indicated that it would take documents E164 (IENG Sary's request on inverse inference drawn from his right to remain silent) and E174 into account when answering the OCP's motion.

Questioning of witness Duch:

The OCP started questioning witness Duch.

Discussion on OCP's request to present relevant documents from Case 001:

The OCP requested to be allowed to supply the witness with copies of his prior statements made in his own case and records of documents presented during his case before he is questioned on these documents. The Trial Chamber reiterated that a witness should be granted access to documents before being questioned on them in order to refresh his memory.

Record of Rule 87.3 Proceedings

TC No	OCIJ No	ERN	Title	Class
E3/130	D366/7.1.1 87	00442251-00442281 00184022-00184047 00292914-00292934	លក្ខន្តិកៈ បក្សកុម្មុយនិស្តកម្ពុជា The CPK statute Status du Parti Communiste du Kampuchea	P

Oral Orders/Decisions:

- Decision to call witness Duch in courtroom for testimony during afternoon hearing (11:05).
- Order to bring the Accused IENG Sary (10:10) and NUON Chea (12:03) to the holding cell (waivers of the Accused are attached to this written record).
- Order to bring the witness Duch to the detention facility (16:04).
- Order to bring the three Accused to the detention facility and to return them to the courtroom for the hearing on 20 March 2012.

Orders for Adjournment of Hearing

The hearing will resume on 20 March 2012 at 9:00am.

Phnom Penh, 19 March 2012

Greffier *  * Greffier
SE Kolvuthy *  * Natché WEXELS-RISER
TRIAL CHAMBER CHAMBRE DE PREMIERE INSTANCE
E.C.C.C 190907