



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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King

Royaume du Cambodge

Nation Religion King

ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):

16 / 08 / 2013

ម៉ោង (Time/Heure): 14 : 15

អគ្គិសនីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé
du dossier: JANN P.V.C.

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

17 July 2013

Substantive Hearing on evidence - Day 212

Prepared by:

Miriam MAFESSANTI and SE Kolvuthy

Attendance Record
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge YOU Ottara, Judge Jean-Marc LAVERGNE
Reserve Judge: Judge THOU Mony, Judge Claudia FENZ
Greffiers: Ms. Faiza ZOUAKRI, Ms. Miriam MAFESSANTI, Ms. SE Kolvuthy
OCP: Ms. SONG Chorvoin, Mr. Tarik ABDULHAK, Mr. Keith RAYNOR
Accused: Mr. KHIEU Samphan, Mr. NUON Chea (participating from the holding cell)
Defence for the Accused: Mr. SON Arun, Mr. Victor KOPPE, Mr. KONG Sam Onn, Ms. Anta GUISSSE
Civil Parties: Mr. PICH Ang, Ms. Elisabeth SIMONNEAU-FORT, Mr. LOR Chunthy, Mr. HONG Kimsuon, Mr. VEN Pov,
Witnesses: Steven HEDER (TCE-33)
Others: Mr. Arun UCH, Ms. SOUR Sotheavy, Ms. Jamie CRAWFORD, Ms. Chhun Danin

<u>General court times</u>		
Day	Start time: 09:00	Finish time: 16:00
Recess am	Start time: 10:35	Finish time: 10:55
Recess	Start time: 12:00	Finish time: 13:35
Recess pm	Start time: 14:35	Finish time: 15.05
	Total Court Time:	4 hours and 35 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Testimony of Witness Steven HEDER (TCE-33)	KS Defence	09:12	10:33
		10:58	11.58
		14.08	14.36
		15.08	15:58
Co-Prosecutors' submission concerning Defence use of witness statements by witnesses who did not testify	OCP KS Defence NC Defence TC	13:36	13:40
		13:41	13:48
		13:49	13:50
		14:06	14:06
Notification by the Accused NUON Chea of his refusal to respond to questions and Co-Prosecutors' request for adverse inferences to be drawn	NC Defence NC Statement OCP LCLCP KS Defence OCP TC	13:48	13:48
		13:50	13:53
		13:53	13:55
		13:55	13:56
		13:57	13:58
		13:58	13:59
		14:06	14:08

Summary of Proceedings

Waiver of the Accused's right to be present in the courtroom

The Accused NUON Chea was present in the holding cell pursuant to Internal Rule 81(5). See Second Decision on Accused NUON Chea's Fitness to Stand Trial, E256/5, 2 April 2013.

Testimony of Witness Steven HEDER (TCE-33)

The KHIEU Samphan Defence posed questions to Witness Steven HEDER (TCE-33). The witness' testimony continues tomorrow.

Notification by the Accused NUON Chea and Co-Prosecutors' request for adverse inferences

The Accused NUON Chea informed the Court he refused to answer questions posed by the Co-Prosecutors or Lead Co-Lawyers. In response, the Co-Prosecutors requested the Chamber warn the Accused that they may draw adverse inferences against NUON Chea, and requested permission to address the Court on the issues on which the Co-Prosecutors wished the court to draw negative inferences. The Lead Co-lawyers reiterated their views as

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expressed vis-à-vis KHIEU Samphan.

Co-Prosecutors' submission concerning Defence use of witness statements

The Co-Prosecutors noted that, in questioning the witness, the Defence teams relied on witness statements of witnesses who did not testify and requested the Chamber note this as a factor to be considered when the Chamber ultimately decides whether to admit written statements in lieu of oral examination. The KHIEU Samphan Defence objected and noted they maintain their objection to the use of written statements in lieu of oral testimony. The Chamber held that that it will deal with this matter if necessary in the verdict (14:07).

Record of Rule 87(3) Proceedings									
TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French		
N/A	E236/1/4/3.1	00898209-00898330	Booked by Sydney SCHANBERG entitled: "Cambodia Diary 1975 - A journalist's day-by-day notes on the fall of Cambodia to the Khmer Rouge"	S		00898227			
E3/22	D222/1.8	00942167-00942168, 00281809-00281810, 00747599-00747640 00393642-00393933 00704188-00704210	[Partial T.] កម្ពុជានិស្តកម្ពុជា និងគំរូរៀនណាម ភាគទី១ (ការយកតម្រាប់តាម និងឯករាជ្យឆ្នាំ១៩៣០ ដល់១៩៧៥) Cambodia Communism and the Vietnamese Model (Imitation and Independence, 1930-1975) [Partial T.] Le communisme cambodgien et le modèle vietnamien	P					
E3/96	D199/20	00348315-00348331 00346938-00346945 00342214-00342220	កំណត់ហេតុនៃការស្តាប់ចម្លើយ THIOUNN Prasith Written Record of Interview of THIOUNN Prasith Procès verbal d'audition de THIOUNN Prasith	P	00348329	00346945	00342220		

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N/A	E190. 1.398	00830754- 00830817 00661455- 00661491 00792913- 00792950	របាយការណ៍វិភាគដោយ Stephen HEDER មានចំណងជើងថា “ការវាយតម្លៃឡើងវិញ អំពីតួនាទីរបស់មេដឹកនាំជាន់ខ្ពស់ និង កម្មាភិបាលមូលដ្ឋានក្នុងឧក្រិដ្ឋកម្ម ក្នុងរបបកម្ពុជាប្រជាធិបតេយ្យ៖ ការទទួលខុសត្រូវរបស់កម្ពុជាក្នុង ទស្សនទានប្រៀបធៀប Reassessing the Role of Senior Analytical Report by Stephen HEDER entitled “Reassessing the Role of Senior Leaders and Local Officials in Democratic Kampuchea Crimes: Cambodian Accountability in Comparative Perspective” Réévaluation du rôle joué par les hauts dirigeants et les responsables locaux dans les crimes commis sous le régime du Kampuchea démocratique : la responsabilité cambodgienne située dans une perspective comparative	P	00830768- 69	00661462- 3	00792921- 2
E3/216	13.1	00008485- 00008493 00850973- 00850978 00343374- 00343380	កំណត់ហេតុ អំពីទស្សនកិច្ច អចិន្ត្រៃយ៍ និងសេចក្តីរាយការណ៍អំពីសភាពការណ៍រួម នៅមូលដ្ឋាន [Corrected 1] Note about permanent visited and the report about overall situation at the basic Procès-verbal de la visite du Comité Permanent et le compte-rendu de la situation générale sur le terrain	P	Footnotes 31-39, 41	Footnotes 31-39, 41	Footnotes 31-39, 41
E3/729	11.3	00063397- 00063434 00357900- 00357930, 00184230- 00184245 00364222- 00364251	ទស្សនាវដ្តី យុវជន និង យុវនារី បដិវត្ត លេខ១០ ខែតុលា ឆ្នាំ១៩៧៥ [Corrected 1] Revolutionary Youth No. 10 Oct., 1975 [Corrigée 1] Revolutionary Youth No. 10 Oct., 1975	P			
E3/750	D243 /2.1.2 1	00063601- 00063639 00522451- 00522479 00525846- 00525879	ទស្សនាវដ្តី យុវជន និង យុវនារី បដិវត្ត លេខ 11 វិច្ឆិកា 1975 CPK Magazine entitled: "Revolutionary Youth," Issue 11, November 1975 (FULL) CPK Magazine entitled: "Revolutionary Youth," Issue 11, November 1975 (FULL)	P			

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E3/747	D243 /2.1.1 8	00064622- 00064651 00499766- 00499789 00499790- 00499815	ទង់បដិវត្ត លេខ ពិសេស ឧសភា-មិថុនា 1978 CPK Magazine entitled: " The Revolutionary Flag", Issue 8, August 1977 (FULL) CPK Magazine entitled: " The Revolutionary Flag", Issue 8, August 1977 (FULL)	P			
E3/748	D243 /2.1.2	00063236- 00063271 00495800- 00495828 00499683- 00499712	ទង់បដិវត្ត លេខ ពិសេស តុលាវិច្ឆិកា 1975 CPK Magazine entitled: " The Revolutionary Flag", Special Issue, October - November 1975 (FULL) CPK Magazine entitled: " The Revolutionary Flag", Special Issue, October - November 1975 (FULL)	P			
E3/4658	D224. 77	00657426- 00657430 00352105- 00352108 00612231- 00612237	ឧបសម្ព័ន្ធ ០០០៧៧៖ បទសម្ភាសន៍របស់ SOAS ជាមួយ អ៊ុក សៀម(Uk Seum) ហៅ សន សៀម(San Seum) Annex 00077: SOAS/HRW Interview of Uk Seum alias San Seum Annex 00077: SOAS/HRW Interview of Uk Seum alias San Seum	P	00657429- 30	00352107	00612235
E3/4659	D224. 31	00788308- 00788311 00351976- 00351977 00774009- 00774011	ឧបសម្ព័ន្ធ 00031: បទសម្ភាសន៍របស់ SOAS/HRW ជាមួយ But Savan Annex 00031: SOAS/HRW Interview of But Savan Annexe 00031: Entretien avec But Savan réalisé par SOAS/HRW	P	00788310	00351976	00774010
E3/1714	D108 /27.1 9	00324672- 00324798 00170692- 00170773 00648960- 00649033	ឧបសម្ព័ន្ធ ១៩៖ បទសម្ភាសន៍ជាមួយជនភៀសខ្លួនកម្ពុជា នៅតាមបណ្តោយព្រំដែនកម្ពុជា-ថៃ Annex 19: Interviews with Kampuchean Refugees at Thai-Cambodia Border, Prepared for the Ishiyama Committee Annual Report, 1980 Annex 19: Rapport annuel: Auditions de refugiés kampuchéens à la frontière thailandaise, préparées pour le comité Ishiyama, 1980	P	00324740- 41, 00324735, 00324706, 00324732, 00324722	00170733, 00170730, 00170714, 00170728, 00170723	00648997, 00648994, 00648979, 00648993, 00648987
E3/198	20.23	00078213- 00078214 00184680- 00184681 00296212- 00296213	សម្ភាសន៍លោកខៀវសំផនហៅហៃម នៅតំបន់ប៉ៃលិនជាភាសាខ្មែរចុះថ្ងៃទី១៧ សីហា២០០៥ SOAS/HRW Suspect Interview of KHIEU Samphan alias Haem SOAS/HRW Interview de KHIEU Samphan alias Haem	P	00078214	00184680	00296212

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E3/4660	19.71	00602356- 00602373 00089756- 00089770 00614079- 00614091	ការស្តាប់ចម្លើយ ខូ វណ្ណី Kho Vanny Interview Kho Vanny Interview	P	00602356, 00602366, 00602370	00089756, 00089764, 00089768	00614079, 00614086, 00614089
E3/3169	D29- Attach ment 66	00711363- 00711420 00002744- 00002773 00722063- 00722093	ឯកសារភ្ជាប់ ៦៦៖ ឯកសារពិភាក្សាស្តីពី៖ "ប៉ុល ពត និង ខៀវ សំផន" ដោយ Steve Heder Attachment 66: Working Papers on "Pol Pot and Khieu Samphan" by Steve Heder Attachment 66: Document de travail intitulé: "Pol Pot et Khieu Samphan", Stephen Heder	P	00711381		00722073
E3/229	13.5	00000713- 00000720 00182625- 00182627 00334958- 00334960	កំណត់អង្គប្រជុំគណៈអចិន្ត្រៃយ៍យប់ថ្ងៃទី ២២ កុម្ភៈ ១៩៧៦ Minutes of permanent committee meeting on 22 February 1976 at night Procès-verbal de la réunion du Comité Permanent, la nuit du 22 février 1976	P	00000713	00182625	00334958
E3/182	13.2	00019108- 00019126 00183393- 00183408 00292868- 00292886	ការប្រជុំអចិន្ត្រៃយ៍ថ្ងៃទី ៩ តុលា ៧៥ Permanent 's meeting of committee on 9 October 1975 La réunion du Comité Permanent du 9 octobre 1975	P	00001908	00183393	00292868
E3/235	13.14	00019142- 00019148 00183416- 00183422 00322968- 00322972	សរុបសេចក្តីសម្រេចរបស់គណៈអចិន្ត្រៃយ៍ក្នុង អង្គប្រជុំថ្ងៃ ១៩-២០-២១ មេសា ១៩៧៦ Decision of permanent committee in the meeting on 19-20-21 April 1976 Decision of permanent committee in the meeting on 19-20-21 April 1976	P	00019142	00183416	00322968
E3/220	13.16	00000827- 00000828 00182706- 00182707 00323891- 00323891	កំណត់ហេតុនៃអង្គប្រជុំគណៈអចិន្ត្រៃយ៍ថ្ងៃ ទី ៧ ឧសភា ១៩៧៦ [Corrected 1] Minutes of permanent committee meeting on 7/5/76 Minutes of permanent committee meeting on 7/5/76	P	00000827	00182706	00323891
E3/258	D366 /7.1.8 15	00001108- 00001108 00522911- 00522911 00531058- 00531058	ទូរលេខ ៣, ជូនចំពោះកងពលលេខ ៨៧០ ជាទីស្រឡាញ់និងនឹករលឹក Telegram Number 3, to beloved and missed Committee M-870 Telegram Number 3, to beloved and missed Committee M-870	P			

Or

E3/893	21.5	00000708- 00000709 00182620- 00182622 00386272- 00386274	ទូរលេខលេខ ៧៨ ជំរាបបង ម.៨៧០ និងបង រាយការណ៍អំពីលទ្ធផលនៃការជួបជុំតាម ណាម Telegram # 78 to brother M.870 and brother Ry: Report about the result after met Vietnam. Telegram # 78 to brother M.870 and brother Ry: Report about the result after met Vietnam.	P	00000708	00182620	00386272
E3/902	21.59	00020894- 00020894 00183625- 00183625 00324514- 00324514	ទូរលេខ ២៣៨ គោរពជូន គណៈ ៨៧០ ជាទីស្នេហា អំពីសភាពការណ៍ខ្លាំងនៅត្រពាំងតៅ Telegram 238 : To Beloved Chief 870 about enemy situation in Trapeang Tao Telegram 238 : To Beloved Chief 870 about enemy situation in Trapeang Tao	P	00020894	00183625	00324514

Oral Orders/Decisions:

- The Chamber directed the court officer to assist the Witness Stephen Heder to return to the courtroom at 09:00 on Thursday 18 July 2013 (15:59).
- The Chamber instructed the security guards to return the Accused KHIEU Samphan and the Accused NUON Chea to the detention facility and to return the Accused KHIEU Samphan to the courtroom and the Accused NUON Chea to the holding cell by 09.00 on Thursday 18 July 2013 (15:59).

Orders for Adjournment of Hearing
Court is adjourned and will resume at 09:00 on Thursday, 18 July 2013 (16:00). *SE*

Phnom Penh, 17 July 2013

Greffier

Miriam MAFESS

Miriam MAFESS



Greffier

SE Kolvuthy

SE Kolvuthy