



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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

Nation Religion Roi
ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): 25 / 06 / 2013
ម៉ោង (Time/Heure):..... 11.15
អ្នកទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: SAN N RADA

WRITTEN REORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

22 January 2013

Substantive Hearing on evidence - Day 149

Prepared by:

Matteo CRIPPA and DAV Ansan

<u>Attendance Record</u>
Before: Judge NIL Nonn (President), Judge YA Sokhan, Judge YOU Ottara, Judge Silvia CARTWRIGHT, Judge Jean-Marc LAVERGNE.
Reserve Judges: Judge THOU Mony, Judge Claudia FENZ.
Greffiers: Ms. Faiza ZOUAKRI, Ms. SE Kolvuthy, Mr. Matteo CRIPPA, Mr. DAV Ansan.
OCP: Mr. CHAN Dararasmey, Mr. SENG Bunkheang, Mr. HUOT Veng, Mr. Vincent de Wilde d'Estmael, Mr. RAYNOR Keith, Mr. Dale Lysak.
Accused: Mr. IENG Sary (present but in his holding cell).
Defence for the Accused: Mr. SON Arun, Mr. Victor KOPPE, Mr. KONG Sam Onn, Ms. Anta GUISSSE, Mr. Michael KARNAVAS, Mr. ANG Udom.
Civil Parties: Ms. Elisabeth SIMONNEAU-FORT, Mr. PICH Ang, Mr. LOR Chunthy, Mr. HONG Kimsuon, Mr. VEN Pov, Mr. SAM Sokong.
Witness: N/A.
Others: Ms. Elburg VAN BOETZELAER, Mr. UCH Arun, Ms. SOUR Sotheary.

General court times		
Day	Start time: 09:05	Finish time: 15.45
Recess am	Start time: 10.30	Finish time: 11.00
Recess	Start time: 11.40	Finish time: 13.40
Recess pm	Start time: 14.15	Finish time: 15.15
	Total Court Time:	3 hours and 10 minutes

Proceedings			
Type of Issue	Raised By	Start time	Finish time
Oral Order allowing the Accused IENG Sary to participate from his holding cell.	TC	09.07	09.09
Co-Prosecutors read documents into the record.	OCP	09.09 11.01	10.33 11.10
Request to Lead Co-Lawyers for the civil parties to present documents.	LCLCP	11.11	11.13
Defence responds with objections to documents read into the record by Co-Prosecutors.	NC Defence KS Defence IS Defence OCP	11.13 11.32	11.32 11.36
Discussion of documents to be presented by the IENG Sary Defence	IS Defence OCP TC OCP	13.43 13.53	13.53 14.10
Request for clarification of procedure for presenting documents before Trial Chamber	LCLCP IS Defence KS Defence TC	14.10 15.38	14.16 15.45
Revised direction of Trial Chamber regarding procedure of documents	TC	15.17	15.32

Summary of Proceedings

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

The Accused NUON Chea and KHIEU Samphan waived their right to be present in the courtroom for the entire day (Document 258/2 and 223/4). They submitted their waivers the previous week.

IENG Sary's request for authorisation to participate remotely to the proceedings and Waiver of IENG Sary's right to be present in the courtroom

The Trial Chamber granted IENG Sary's request to participate remotely to the proceedings from his holding cell for the whole day.

Co-Prosecutors presented key documents

The Co-Prosecutors presented 33 documents they considered most relevant to the proceedings (see documents table).

Request to Lead Co-Lawyers for the civil parties to present documents

The Lead Co-Lawyers excuse themselves for not being ready to present their documents today. The Lead Co-Lawyers request the Co-Prosecutors to continue their presentation and to be allowed to present subsequently.

Defence responds with objections to documents presented by the OCP.

NUON Chea Defence objects to document E3/5 as it is not the original document. Requests Trial Chamber to dismiss the proposed documents and subsequent documents of a similar kind.

IENG Sary Defence objects to several documents that were presented by the Co-Prosecutor. They object to any documents without testimonial evidence and of which the authenticity and/or reliability is not verified.

KHIEU Samphan Defence refers to memos E170, E163 and E223, and states that they are not ready to plead on the admissibility of the documents due to miscommunication and the absence due to health problems of KHIEU Samphan.

Co-Prosecutors respond to objections raised by the defence.

Discussion of documents to be presented by the IENG Sary Defence.

The Co-Prosecutors argued that a number of the documents that the IENG Sary Defence included in its submission regarding the military structure, the movement of population phases 1 and 2 and the killing site at Tuol Po Chrey have already been the subject of hearings before and therefore should not be included. The chamber requests the Co-Prosecutor to list the repetitious documents in order for the chamber to be able to rule on the inclusion of aforementioned documents.

The Co-Prosecutors list the documents that were already subject of hearings and to which inclusion in the presentation of the IENG Sary Defence they object (see documents table).

Request for clarification procedure to present documents before the Trial Chamber.

The Lead Co-Lawyers for the civil parties request clarification of the procedure for presenting documents before the Trial Chamber.

The Chamber clarifies the procedure of document hearings upon request of the KHIEU Samphan defence team.

Revised direction of Trial Chamber regarding procedure of presenting documents

The Chamber provides guidance regarding 1) the discussion of admissibility of documents, and, 2) the presentation of key documents.

<u>Record of Rule 87(3) Proceedings</u>				
TC Ref Number	OCIJ Ref Number	Name/Description	Party/TC	Remarks (ERN)
E3/814		Minutes of Meeting of Division Committees 1 June 1976	OCP	
E3/797		Minutes of Division Secretaries Meeting 18 Aug 1976	OCP	
E3/790		Decisions of Division Committees Conference 10-14 July 1976	OCP	00441999- 00442000 (KH) 00714788- 00714789 (EN) 00752245 (FR) 00442011 (KH) 00714793 (EN) 00752251 (FR) 00442014 (KH) 00714795 (EN) 00752253 (FR)
E3/795		Minutes of Division Secretaries Meeting 2 Aug 1976	OCP	
E3/798		Minutes of Division Secretaries Meeting 30 Aug 1976	OCP	00052380- 00052381 (KH) 00183966 (EN) 00386196-

				00386196 (FR) 00052382 (KH) 00183968 (EN) 00386199 (FR)
E3/1133		Report from Met (Div. 502) 1 Sept 1976	OCP	
E3/813		Minutes of Meeting with Division 164 9 Sept 1976	OCP	
E3/811		Minutes of Meeting with Division 703 & S-21 9 Sept 1976	OCP	
E3/822		Minutes of Meeting with Divisions 290 & 170 16 Sept 1976	OCP	
E3/800		Minutes of Division Secretaries Meeting 16 Sept 1976	OCP	
E3/810		Minutes of Division Secretaries Meeting 19 Sept 1976	OCP	
E3/1024		Telegram Khieu to Roeun 23 Sept 1976	OCP	
E3/1101		Telegram Khieu to Chhin 23 Sept 1976	OCP	
E3/801		Minutes of Meeting of Divisions re Production 30 Sept 1976	OCP	
E3/820		Report by Ren 1 Oct 1976	OCP	
E3/1225		Telegram from Dim to Mut 6 Oct 1976	OCP	
E3/13		Minutes of Division Secretaries Meeting 9 Oct 1976	OCP	00052405 (KH) 00183984 (EN) 00334974 (FR) 00052405- 00052406 (KH) 00183985 (EN) 00334795 (FR) 00052407 (KH) 00038515 (KH) 00052408 (KH) 00183987 (EN) 00334978 (FR)

				00052409 (KH) 00052410 (KH) 00052411 (KH) 00052412- 00052413 (KH) 00183991 (EN) 00334981 (FR) 00052414 (KH)
D288/6. 5/2.22		S-21 Confession of Chhouk	OCP	00038660- 00038662 (KH) 00831531- 00831533 (EN)
E3/192		DK Radio Announcement of Nuon Chea as Acting Premier 27 Sept 1976	OCP	
D288/6. 5/2.14		S-21 Confession of YIM Sambath	OCP	00245206- 00245211 (KH) 00284003- 00284008 (EN) 00800759- 00800764 (FR)
E3/815		Minutes of Division Secretaries Meeting 18 Oct 1976	OCP	
E3/1135		Report from Mut to 89, with note from Khieu to Bang Nuon 19 Oct 1976	OCP	
E3/1151		Telegram from 89 to Mut 4 Nov 1976	OCP	
E3/1585		List of Participants at 20 Oct 1976 General Staff	OCP	

		Study Session		
E3/847		List of Participants at 23 Nov 1976 General Staff Study Session	OCP	
E3/1142		List of Groups at 23 Nov 1976 General Staff Study Session	OCP	
E3/1164		25 Nov 1976 report from Roeun to 89	OCP	
E3/804		Minutes of Division Secretaries Meeting 15 Dec 1976	OCP	
E3/1079		Report from Roeun to 89 25 Dec 1976	OCP	
E3/1132		Dec 1976 General Staff report re Situation along Border	OCP	
E3/807		Minutes of Division Secretaries Meeting 1 March 1977	OCP	
E3/1061		report from Roeun to 89, with 3 Apr 77 note to Angkar 24 Mar 1977	OCP	
E3/1060		report from Roeun to 89, with 5 Apr 77 note to	OCP	

		Angkar 29 Mar 1977		
D43/IV-Annex 22		S-21 Confession of Sour Tuon <i>alias</i> Mao (KHM 00173999 - 2 June 1977 note from Khieu to Roeun)	OCP	
E3/150		S-21 Confession of Hang Doeun <i>alias</i> Dim, Deputy Secretary of Div. 164 - 8 May 1977 annotation	OCP	00174375 (KH) 00224085 (EN) 00235668 (FR)
D43/IV-Annex 99		S-21 Confession of Kun Dim - 10 Sept 1977 note by Khieu	OCP	00175293 (KH) 00822359 (EN) 00289872 (FR)
D43/IV-Annex 91		S-21 Confession of Chea Soeun, Regiment Secretary in Div. 703 – annotation that copy sent to Comrade Pin	OCP	00174986 (KH)
D302.5		S-21 Confession of Srei Saroeun, former Battalion Secretary in Div. 502– annotation that copy sent to Comrade Met	OCP	00235162 (KH)
E3/1168		Report from Roeun to 89 30 Mar 1977	OCP	
E3/849		Joint Statistics of Armed Forced – March 1977	OCP	
E3/1199		Telegram from San (Div. 920) to Brother 89 6 April	OCP	

		1977		
E3/1202		Report from Sok to Brother 89 4 June 1977	OCP	00033309 (KH) 00828147 (EN) 00623394 (FR)
E3/1082		Report from Mut, with note from Khieu to Angkar 12 Aug 1977	OCP	
E3/915		Telegram from Mut to Committee 870 31 Dec 1977	OCP	
E3/5		CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1875	NC Defence	000633244 (KH) 00538963 (FR)
E170		Trial Chamber Memorandum entitled: "Scheduling of oral hearing on documents (13-16 February 2012)	KS Defence TC	
E163		Co-Prosecutors' request to include additional crime sites within the scope of the trial in case 002/1	KS Defence	
E223		Submission in support of Mr IENG Sary's request E221, and request for the Trial Chamber to order the Co-Prosecutors to revise the list of written statements they are seeking to put before the chamber in lieu of oral testimony.	KS Defence	
E223/2		Trial Chamber Memorandum entitled: "Forthcoming document hearings and response to Lead Co-Lawyers'	IS Defence	

		memorandum concerning the Trial Chamber's request to identify civil party applications for use at trial (E208/4) and KHIEU Samphan defence request to revise corroborative evidence lists (E223).		
	IS 5.53 or D125/217	Report of the execution of rogatory letter, dated 17-03-2009: Site identification report.	IS Defence	
E208/1		IENG Sary's response to the co-prosecutors' request to admit witness statements relevant to phase 1 of the population movement.	IS Defence	
E96/8		Co-prosecutors further request to put before the chamber written statements and transcripts with confidential annexes 1 to 16.	IS Defence	
E182.2		Annex 1: site bombed by US Air Force	IS Defence	
E3/1750	D108/28.104	Annex 104: Democratic Kampuchea Military Telegram entitled "Telegram 04, Band 429, For Respected and Beloved Brother Mut"	OCP	
	D108/31.28	Letter from Met to Duch	OCP	
	D125/97	Written Record of Interview of HIM Man	OCP	
E223/2.1.2 (No.7)	D199/26.2.209	Telegramme intitule Situation ce matin 20 Avril	OCP	
E223/2.1.2 (No.8)	D199/26.2.219	Telegram to Professor Picquart	OCP	
	D199/26.2.228	Telegram entitled « Message for the International Red Cross in Phnom Penh »	OCP	

	D199/26.2.256	Telegram: Evacuation of our Embassy in Phnom Penh	OCP	
	D232/65	Written Record of Interview of LIM Sat	OCP	
	D233/8	Written Record of Interview of YUNG Yem Dated 21-10-2009	OCP	
E3/781	D269/9/1.16 = D366.7.1.56	Communist Party of Kampuchea (CPK) Publication entitled "Governing and carrying out policy and restoring all fields of the country (Document No.3) Six Secret Center Documents, 19-9-1975, Document No.3	OCP	
E3/3091 R	D299.1.15R	What happen to Cambodia : Ronnie Yimsut's story	OCP	
	D304/1.3	Children and UNICEF in Cambodia: From 1952 to Year Zero	OCP	
E223/2/ 1.2	D313/1.2.65	American Talks of Phnom Penh after the Fall	OCP	
E223/2/ 1.2	D365/1.1.10	Phnom Penh was Ghost City	OCP	
	D365/1.1.15	Evacuees Tell of Executions Kindness	OCP	
	D365/1.1.17	500 More Foreigners Leave Cambodia	OCP	
E223/1/ 1.2	D365/1.1.23	Cambodia Reds are Uprooting Millions as They Impose a 'Peasant Revolution'	OCP	
	D365/1.1.28	Cambodian Transformation	OCP	
	D365/1.1.3	Phnom Penh Evacuation is Ordered	OCP	
	D365/1.1.34	Urban Exodus Complete, Cambodia Refugees Say	OCP	
	D369/6	Written Record of Interview of Witness	OCP	

		CHUON Thi		
E3/800		Note of Secretary-under-secretary division and independence regiment meeting. About I need some news of enemy situation	OCP	IS 13.30
E3/822	D248/6.1.5	Democratic Kampuchea Military Meeting Minutes entitled "Meeting of Division 290 and Division 170"	OCP	IS13.31
E190/4.1	D366/7.1.5870	International Statement of KHO Vanny	OCP	IS19.71
	D232/26	Written Record of Interview of CHUM Cheat	OCP	
E185.1	D109/4.1	Annex A: Documents referred to in the paragraphs of the Closing Order relevant to the historical background as well as the administrative and communications structures.	OCP	

Oral Orders/Decisions:

- Order allowing the Accused IENG Sary to participate from the holding cell during the entire day (waiver of the Accused is attached to this written record).
- Order to the security personnel to bring the accused IENG Sary to the detention facility and have him returned to the courtroom by 9 a.m. on Wednesday 23 January 2013.

Orders for Adjournment of Hearing

The hearing will resume on 23 January 2013 at 09.00am.

Phnom Penh, 22 January 2013

Greffier

Greffier

[Handwritten signatures of Matteo CRIPPA and DAV Ansan]

Matteo CRIPPA

DAV Ansan



12/12