



**ឯកសារដើម**  
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ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):  
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ម៉ោង (Time/Heure) : ..... ១៣ : ៥០ ..... ព្រះរាជាណាចក្រកម្ពុជា

បម្រើឧទ្ធរណ៍សំណុំរឿង / Case File Officer/L'agent de ជំនាញ គណនេយ្យ ព្រះមហាក្សត្រ  
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E1/171

**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 REORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

18 February 2013

Substantive Hearing on evidence - Day 158

Prepared by:

Roger PHILLIPS and DAV Ansan

<b>Attendance Record</b>
<b>Before:</b> Judge NIL Nonn (President), Judge YA Sokhan, Judge YOU Ottara, Judge Claudia FENZ, Judge Jean-Marc LAVERGNE.
<b>Reserve Judges:</b> Judge THOU Mony.
<b>Greffiers:</b> Mr. DUCH Phary, Mr. DAV Ansan, Mr. Roger PHILIPS.
<b>OCP:</b> Mr. Andrew CAYLEY, Ms. CHEA Leang, Ms. SONG Chorvoïn, Mr. Dale LYSAK.
<b>Accused:</b> Mr. KHIEU Samphan (present in the holding cell), Mr. IENG Sary (morning session: present in his holding cell).
<b>Defence for the Accused:</b> Mr. SON Arun, Mr. Victor KOPPE, Mr. KONG Sam Onn, Mr. Arthur VERCKEN, Mr. ANG Udom, Mr. Michael G. KARNAVAS.
<b>Civil Parties:</b> Ms. Elisabeth SIMONNEAU-FORT, Mr. PICH Ang, Mr. LOR Chunthy, Mr. VEN Pov, Ms. Christine MARTINEAU, Mr. HONG Kimsuon, Mr. KIM Mengkhy, Ms. TY Srinna, Ms. Lyma NGUYEN, Ms. SIM Soworn, Ms. Beini YE.
<b>Witness:</b> N/A
<b>Others:</b> Ms. Susan LAMB, Mr. UCH Arun, Ms. SOUR Sotheary, Elburg VAN BOETZELAER

<u>General court times</u>		
Day	Start time: 09.10	Finish time: 16.05
Recess am	Start time: 10.30	Finish time: 10.50
Recess	Start time: 11.45	Finish time: 13.45
Recess pm	Start time: 14.50	Finish time: 15.15
	Total Court Time:	4 hours and 10 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Temporary replacement of Judge Cartwright by Judge Fenz	TC	09.11	09.14
IENG Sary's and KHIEU Samphan's request for authorisation to participate remotely in the proceedings.	TC	09.14	09.15
Waiver of NUON Chea's right to be present in the Courtroom	TC	09.14	09.15
Request to consult with client prior to submissions	NC Defence	09.15	09.16
		14.45	14.46
	KS Defence	09.16	09.19
		14.48	14.49
	IS Defence	09.44	09.46
		14.46	14.48
Rescheduling of hearing, explanation and directions regarding procedure of severance hearings	TC OCP	09.19	09.55
Submissions by the Co-Prosecutors and Lead Co-Lawyers for Civil Parties	TC OCP LCLCP	09.56	10.31
		10.51	11.47
		14.21	14.42
		15.15	
Clarification regarding verdict	TC (JF)	11.02	11.04
Waiver of IENG Sary's right to follow the proceedings from the holding cell	IS Defence TC	13.44	13.48

Discussion about the rescheduling of the evidence of TCW-665 and TCW 673	KS Defence	13.50	14.21
	OCP TC (JL; JF) LCLCP NC Defence IS Defence	16.01	16.04

### Summary of Proceedings

#### Temporary replacement of Judge Cartwright by Judge Fenz

Due to personal reasons, Judge Cartwright will not be present for this week's hearings, ex Internal Rule 79.4 she will be replaced by Judge Claudia Fenz.

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

The Accused IENG Sary and KHIEU Samphan are present in the holding cells due to health concerns. The Trial Chamber granted IENG Sary's and KHIEU Samphan's request to participate remotely in the proceedings from their holding cell for the whole day.

#### Waiver of NUON Chea's right to be present in the courtroom

The Accused NUON Chea is still admitted to the Khmer Soviet Friendship hospital and waived his right to be present in the courtroom for the entire day.

#### Request of Defence teams to consult with client prior to submissions

The Defence teams of the Accused NUON Chea, KHIEU Samphan and IENG Sary requested time to consult with their clients prior to making submissions. The respective Defence teams request to give their submissions on Wednesday.

#### Rescheduling of hearings, explanation and directions regarding procedure of severance hearings

Due to the health of the Accused NUON Chea and the hearings following the Supreme Court Chamber decision regarding the severance of Case 002, the Trial Chamber will reschedule the witness and expert hearings for the upcoming weeks.

The Trial Chamber requests all parties to make submissions in response to the memorandum of 12 February 2013, in which 9 issues are outlined. The Co-Prosecutors request permission to address all issues at one time. The Chamber directs all parties to respond to the 9 issues separately, as outlined in the memo, because it will benefit the decision that is to be made by the Trial Chamber.

#### Submissions by the Co-Prosecutors and Lead Co-Lawyers for Civil Parties

The Co-Prosecutors and the Lead Co-Lawyers for Civil Parties subsequently make submissions regarding the 9 issues as outlined in the Trial Chamber memo of 12 February 2013.

**Clarification by the Trial Chamber regarding Verdict in Case 002/01**

Judge Fenz clarifies, for the public and the parties, that it has to be taken into consideration that considerable amount of time will be needed, after the completion of the evidentiary hearings, for the drafting of the judgement because of the evidentiary and legal challenged involved in Case 002.

**Waiver of IENG Sary's right to follow the proceedings from the holding cell**

Due the health reasons (namely fatigue and exhaustion) of the Accused IENG Sary, the Accused waived his right to follow the proceedings from his holding cell for this afternoon's and tomorrow's hearings.

**Discussion about the rescheduling of the hearings of TCW-665 and TCW-673**

The KHIEU Samphan Defence requests the rescheduling of the hearings of character witnesses TCW-665 and TCW-673, as these witnesses are not only character witnesses, but will probably also provide testimonies on the factual allegations. Request to postpone the hearing of these witnesses until the scope of Case 002 is clear. The Trial Chamber decided to defer the hearing of TCW-665 and TCW-673 to an appropriate time in the future.

**Record of Rule 87(3) Proceedings**

TC Ref Number	OCIJ Ref Number	Name/Description	Party/TC	Remarks (ERN)

**Oral Orders/Decisions:**

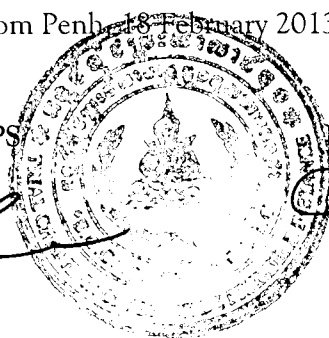
- Order allowing the Accused IENG Sary and KHIEU Samphan to participate from the holding cell for the entire day
- Order granting permission to the Accused IENG Sary to go back to the ECCC detention facility and be absent for the hearing of this afternoon and tomorrow.
- Decision to defer the hearing of witnesses TCW-673 and TCW-665 to an appropriate time in the future.
- Order to security personnel to return the Accused KHIEU Samphan to the courtroom on 20 February 2013 at 9 am.

**Orders for Adjournment of Hearing**

The hearing will resume on Wednesday 20 February 2013 at 09.00 a.m.

Phnom Penh, 18 February 2013

Greffier  
Roger PHILLIPS

Greffier  
DAV Ansan

