



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

E1/356

ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

ឯកសារដើម

ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

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

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WRITTEN RECORD OF PROCEEDINGS

PUBLIC

13:20

ប្រតិបត្តិការបណ្តុះបណ្តាល / Case File Officer/L'agent chargé

du dossier: SAN N N N N

Case File N° 002/19-09-2007-ECCC/TC

26 October 2015

Substantive Hearing on Evidence 002/02 – Day 337

Prepared by:

Sivhoang CHEA and Matthew J. McCARTHY

Attendance Record
Before: Judge NIL Nonn (President); Judge Jean-Marc LAVERGNE; Judge YA Sokhan; Judge Claudia FENZ; Judge THOU Mony
Reserve Judges: Judge Martin KAROPKIN (Reserve)
Greffiers: Ms. Sivhoang CHEA; Mr. Matthew J. McCARTHY; Mr. Roger PHILLIPS
OCP: Mr. SENG Leang; Mr. Nicholas KOUMJIAN; Mr. Dale LYSAK; Mr. Vincent DE WILDE d'ESTMAEL
Accused: Mr. NUON Chea (from the holding cell); Mr. KHIEU Samphan
Defence for the Accused Nuon Chea: Mr. Victor KOPPE; Mr. SON Arun; Mr. LIV Sovanna
Defence for the Accused Khieu Samphan: Mr. KONG Sam Onn
Standby Counsel for the Accused Khieu Samphan: Ms. TOUCH Voleak; Mr. Calvin SAUNDERS
Civil Parties: Mrs. CHET Vanly; Ms. Marie GUIRAUD; Mr. PICH Ang; Mr. LOR Chunthy; Mr. HONG Kimsuon; Mrs. SIN Soworn
Witness: 2-TCW-996
Duty Counsel for the Witness: Mr. DUCH Phary
Others: Mr. UCH Arun (Court Officer); Mr. LONH Nget, Mrs. SAM Makara (Transcribers); Ms. Clémentine PLAGNOL, Ms. Sokchea SIM (Interns)

<u>General court times</u>		
Day	Start time: 09:09	Finish time: 16:06
Lunch	Start time: 10:40	Finish time: 13:35
Recess pm	Start time: 14:45	Finish time: 15:03
	Total Court Time:	3 hours and 45 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Opening of hearing and report on attendance of Parties	Trial Chamber, Greffier	09:09	09:14
Order under Internal Rule 79(4) for the continuation of the proceedings	Trial Chamber	09:10	09:11
NUON Chea Request to follow the proceedings from the holding cell	NUON Chea Defence	09:14	09:16
KHIEU Samphan motion to adjourn the trial proceedings	KHIEU Samphan Defence	09:17	09:28
	Co-Prosecutors	09:29	09:31
	Lead Co-Lawyers for Civil Parties	09:30	09:32
	Trial Chamber	09:32	09:35
		13:37	13:39
KHIEU Samphan and Co-Prosecutors' request that the Chamber retract its order (E319/7/3) on the use of written records from Cases 003 and 004 (Closed Session)	Trial Chamber	09:35	09:40
	KHIEU Samphan	09:40	09:58
	Trial Chamber	09:58	10:06
	Co-Prosecutors	10:06	10:21
	Lead Co-Lawyer for Civil Parties	10:22	10:24
	Trial Chamber	10:25	10:27
	Co-Prosecutors	10:27	10:36
	Trial Chamber	10:36	10:40
Trial Chamber's oral decision on the requests to retract its order (E319/7/3)	Trial Chamber	13:35	13:44
Witness Examination of 2-TCW-996	Trial Chamber	13:44	13:51
	NUON Chea Defence	13:52	14:45
		15:03	15:55
NUON Chea Request pursuant Internal Rule 87(3) to admit one document	NUON Chea	15:55	15:56
	Co-Prosecutors	15:58	16:00
	Trial Chamber	16:04	16:05

Summary of Proceedings**Opening of hearing and report on attendance of Parties**

The President opened the proceedings and the Greffier informed the Trial Chamber that all Parties were present. The Accused NUON Chea was present in the holding cell.

Order under Internal Rule 79(4) for the continuation of the proceedings

The Trial Chamber ruled that pursuant to Internal Rule 79(4), Judge THOU Mony (reserve) will sit for Judge YOU Ottara until his return.

NUON Chea request to follow the hearing from the holding cell

The Trial Chamber granted NUON Chea's request to waive his right to be present in the courtroom and to follow the proceedings from the holding cell.

KHIEU Samphan motion to adjourn the trial proceedings

The KHIEU Samphan Defence requested additional time to prepare for Case 002/01 appeal hearings and for the upcoming Case 002/02 trial topic on the treatment of the Vietnamese. The Co-Prosecutors responded that this request was not unreasonable but requested that the Trial Chamber hear the three currently scheduled witnesses before adjourning. The Lead Co-Lawyers for Civil Parties did not object to the KHIEU Samphan Defence request but noted the Civil Parties' right for the conclusion of Case 002/02 within a reasonable time.

The Trial Chamber granted the Parties one additional week from the 2 to 5 November 2015 to prepare for Case 002/01 appeal hearings. Because the witnesses originally scheduled for Wednesday and Friday of this week are no longer available, the Trial Chamber will adjourn until 30 November 2015 after hearing currently scheduled witnesses 2-TCW-996 and 2-TCW-868.

KHIEU Samphan and Co-Prosecutors' request for the Trial Chamber to retract its supplemental order on the use of written records of interview from Cases 003 and 004 (Closed Session)

The KHIEU Samphan Defence asked the Trial Chamber to reconsider its additional guidelines on the use of written records of interview (WRI) from Cases 003 and 004 (E319/7/3), arguing that the guidelines, requiring the proceedings to be held regularly in closed session, deprive the Accused of his right to a public trial. The KHIEU Samphan Defence requested that the Chamber rely only on its original guidelines (E319/7).

The Co-Prosecutors and Lead Co-Lawyers for Civil Parties argued that the Chamber should generally hear witnesses and Civil Parties in public session, absent legitimate security and privacy concerns. The Co-Prosecutors and Lead Co-Lawyers for Civil Parties also argued that the Chamber's original guidelines (E319/7) were sufficient.

The Trial Chamber ruled that its amended guidelines on the use of WRI (E319/7/3) will remain in effect for the time being and that it would hear 2-TCW-996 and 2-TCW-868

entirely in closed session. Each party shall refrain from questioning 2-TCW-868 using Case 003 and 004 WRI until the end of their examination. After consultation with the International Co-Investigating Judge on necessary redactions, the Trial Chamber will make public the redacted transcripts of the 26 October 2015 proceedings. The Chamber's reasoned decision on the request to retract its amended guidelines will be provided in due course.

Witness Examination of 2-TCW-996

Trial Chamber and the NUON Chea Defence questioned witness 2-TCW-996.

NUON Chea's Internal Rule 87(3) motion

After its questioning of 2-TCW-996, the NUON Chea Defence made a motion to admit D366/7.1.479, a document put to the witness discussing medicines from China. The Trial Chamber granted the motion and admitted D366/7.1.479 into evidence.

New E3

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/9648	D366/7.1.479	00233530- 00233531; 00072601- 00072602; /	DK Ministry of Commerce statistics table entitled "Ministry of Commerce, medicine from China date 1-14 August 1976"	P	0008497 0008498 0008499	00143452	/

Reclassified

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/160	/	00852122- 00852124; 00143036- 00143459; /	The Khmer Rouge Communication Document 1975-1978	P	0008497 0008498 0008499	00143452	/
E3/9094	/	00734030- 00734120; 00728641- 00728705 01123606- 01123663	Statement of PAN Chhuong (DC-Cam)	P	00734075	00728673	01123635

Other documents (No Change)

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/9564	/	01003875- 01003890, 01044791- 01044810	Written Record of Interview of [2-TCW- 996]	SC	01003885	01044804 01044805	/
E3/9	D222/1.15	/ 00396177- 00396757; 00639445- 00640068	Book by Philip Short entitled "Pol Pot, The History of a Nightmare"	P	/	00396327	00639638
E3/9076	/	00728841- 00728896; 00731151- 00731190; /	Statement of [REDACTED] (DC- Cam)	P	00728848 00728849 00728868 00728870 00728871 00728872 00728880 00728881	00731156 00731170 00731172 00731179	/

Oral Orders/Decisions:

- The Trial Chamber ruled that pursuant to Internal Rule 79(4), Judge THOU Mony (reserve) will sit for Judge YOU Ottara until his return. (09:09).
- Order authorizing the Accused NUON Chea to follow the proceedings from the holding cell and instructing the AV Unit to connect the AV link to the proceedings (09:14).
- Decision adjourning the proceedings in response to the KHIEU Samphan Defence request (13:38).
- Decision affirming that amended guidelines on the use of WRI from Cases 003 and 004 (E319/7/3) remain in effect (13:39).
- Order granting NUON Chea Defence motion to admit document D366/7.1.479 into evidence (16:04).
- Order instructing the security personnel to bring the Accused back to the detention facility and to return them to the courtroom for the hearing on 27 October 2015 (16:06).


Orders for Adjournment of Hearing


The hearing will resume on 27 October 2015 at 09:00 a.m.

Phnom Penh, 26 October 2015

Greffier

Greffier


Sivhoang Ch


Matthew J. McCARTHY

