



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

ឯកសារដើម

ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

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

02/12/2016

ម៉ោង (Time/Heure): 18:00

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

SANN RAPA

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

13 October 2016

Substantive Hearing on evidence – Day 464

Prepared by:

Mr. EM Hoy and Mr. Roger PHILLIPS

<u>Attendance Record</u>
Before: Judge NIL Nonn (President); Judge YA Sokhan; Judge YOU Ottara; Judge Claudia FENZ; Judge Jean-Marc LAVERGNE
Reserve Judges: Judge THOU Mony; Judge Martin KAROPKIN (Reserve)
Greffier/s: Mr. EM Hoy; Mr. Roger PHILLIPS
OCP: Ms. SONG Chorvoin; Mr. Nicolas KOUMJIAN; Mr. Joseph Andrew BOYLE
Accused: Mr. NUON Chea (from the holding cell); Mr. KHIEU Samphan
Defence for the Accused Noun Chea: Mr. Victor KOPPE
Defence for the Accused Khieu Samphan: Mr. KONG Sam Onn, Ms. Anta GUISSÉ.
Standby Counsel for the Accused Khieu Samphan: Ms. TOUCH Voleak; Mr. Calvin SAUNDERS
Civil Parties: Mr. PICH Ang; Mrs. SIN Soworn; Mr. HONG Kimsuon; Mr. VEN Pov; Ms. Marie GUIRAUD
Witness: Ms. PEN Sochan (2-TCCP-298) and Mr. CHEAL Choeun (2-TCW-960)
Others: Mr. UCH Arun (Court Officer); Ms. SOUR Sotheavy (Associate Court Officer); Ms. YOUS Sereiroth (Transcriber); Mr. VAT Somao (Transcriber); Mr. NOU Monoraoth (Transcriber); Mr. LAY Nara (Transcriber); Ms. Elodie KANCEL (Trial Chamber Intern).

<u>General court times</u>		
Day	Start time: 9:01	Finish time: 16:08
Recess am	Start time: 10:08	Finish time: 10:30
Recess	Start time: 12:05	Finish time: 13:31
Recess pm	Start time: 14:49	Finish time: 15:08
	Total Court Time: 5 hours	0 minute

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Opening of Hearing	Trial Chamber , Greffier	9:02	9:04
NUON Chea request to follow the proceedings from the holding cell	NUON Chea Defence	9:04	9:05
Hearing of Civil Party 2-TCCP-298 (Ms. PAN Sochan)	Trial Chamber	9:05	9:15
	NUON Chea Defence	9:15	11:08
	KHIEU Samphan Defence	11:08	11:56
Objection to the questioning of Civil Party 2-TCCP-298 by the NUON Chea Defence	Lead Co-Lawyer for the Civil Parties	9:58	9:58
	NUON Chea Defence	9:59	9:59
	Trial Chamber	10:00	10:01
Oral request for additional time for the hearing of Civil Party 2-TCCP-298	NUON Chea Defence	10:03	10:05
	KHIEU Samphan Defence	10:05	10:05
	Trial Chamber	10:30	10:30
Oral Ruling on the Co-Prosecutor's requests pursuant to Internal Rules 87(3) and 87(4) to Admit Documents as Evidence and admission of new evidence <i>proprio motu</i>	Trial Chamber	13:32	13:39
Oral Ruling on the Lead Co-Lawyer for the Civil Parties' request to be granted an additional day for the impact hearings	Trial Chamber	13:39	13:42
Oral submissions on the NUON Chea Defence's request pursuant to Internal Rules 87(3), 87(4) and 93.	KHIEU Samphan Defence	13:44	13:48
	Co-Prosecutor	13:48	13:51
	Lead Co-Lawyer for the Civil Parties	13:51	13:51
	NUON Chea Defence	13:51	13:56
	KHIEU Samphan Defence	13:56	13:57
	Co-Prosecutor	13:57	13:58
	KHIEU Samphan Defence	13:58	14:00
	Co-Prosecutor	14:00	14:02

Hearing of Witness 2-TCW-960 (Mr. CHEAL Choeun)	Trial Chamber	14:04	16:06
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Summary of Proceedings

Opening of hearing and report on attendance of the Parties

The President NIL opened the proceedings and the Greffier informed the Chamber that all parties were present, with the exception of Mr. LIV Sovanna, Co-counsel for NUON Chea, who is absent for health reasons. NUON Chea is present in the holding cell.

NUON Chea Defence Request to follow the proceedings 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.

Hearing of Civil Party 2-TCCP-298 (Ms. PAN Sochan)

The NUON Chea Defence, the KHIEU Samphan and the Trial Chamber questioned Civil Party 2-TCCP-298.

Objection by the Lead Co-Lawyer for the Civil Parties to the questioning of Civil Party 2-TCCP-298 by the NUON Chea Defence

The Lead Co-Lawyer for the Civil Parties objected to the fact that the NUON Chea Defence did not provide video excerpts that were mentioned during his questioning of the Civil Party. The NUON Chea Defence answered that it did not find necessary to show the excerpt in question. After deliberation, the Trial Chamber ordered the NUON Chea Defence to show the relevant video excerpts.

Oral request for the allocation of additional time to hear Civil Party 2-TCCP-298

The NUON Chea Defence made an oral request for additional time to question Civil Party 2-TCCP-298, citing the importance of the Civil Party for the trial. The NUON Chea Defence requested 35 minutes. The KHIEU Samphan Defence asked that these 35 minutes be granted in the beginning of the afternoon. After deliberation, the Trial Chamber granted 15 additional minutes to the Defence teams to be used during the morning session.

Oral ruling on the Co-Prosecutor's requests pursuant to Internal Rules 87(3) and 87(4) to admit documents as new evidence

The Chamber has been informed by emails on 10 and 12 October 2016 that the International Co-Prosecutor intends to use the statements contained in documents E319/52.3.1, E319/52.3.3 and E319/58.2.4, in the course of the upcoming hearing of witness 2-TCW-960, scheduled to testify on Thursday 13 October 2016. These documents are the subject of the International Co-Prosecutor's requests E319/52 and E319/58 made pursuant to Internal Rules 87(3) and (4), filed on 25 July and 1 September 2016, respectively. A Trial Chamber decision on these requests is currently pending. In view of witness 2-TCW-960's imminent appearance, the Chamber will rule on the admission of these three documents now.

The Chamber notes that the KHIEU Samphan Defence filed a response to E319/52 on 29

August 2016 objecting to the admission of documents E319/52.3.1 and E319/52.3.3. The Chamber further notes that consolidated responses by the NUON Chea Defence and KHIEU Samphan Defence to the International Co-Prosecutors' 87 (4) requests E319/56 and E319/58 were filed on Monday 10 October 2016, in which they object to the admission of E319/58.2.4. The admission into evidence of documents E319/52.3.1, E319/52.3.3 and E319/58.2.4 is opposed on the grounds of untimeliness and irrelevance. Having considered the submissions of the parties, the Chamber, noting the requirements of Internal Rules 87(3) and (4), decides to admit the following documents into evidence and assigns them document number (in brackets):

- E319/52.3.1 (E3/ 10682) and its attachment E319/52.3.1a (E3/ 10682a)
- E319/52.3.3 (E3/10683)
- E319/58.2.4 (E3/10684)

Written reasons will follow in due course.

The Trial Chamber further wishes to admit on its own motion document E319/52.2.17, Written Record of Interview of witness 2-TCW-960. Document E319/52.2.17 contains 5 attachments, all of which are photographs (E319/52.2.17.1-5). The Chamber recalls its practice to admit into evidence all prior statements of Civil Parties or witnesses who appear before it pursuant to Internal Rules 87(3) and 87(4). The Chamber therefore in the interests of justice admits into evidence document E319/52.2.17 and its 5 attachments and assigns them Document numbers E3/10681 and E3/10681.1-5, respectively.

Oral ruling on the Lead Co-Lawyer for the Civil Parties' request to be granted an additional day for the hearing on the harm suffered by the Civil Parties

The Trial Chamber is seized of the Lead Co-Lawyers' submission of the list of Civil Parties to testify during the hearings on harm suffered for the Fifth Segment of Case 002/02, that is Document E315/1/7, which includes a request for one additional day for these hearings on the basis that the Chamber is no longer hearing Civil Party 2-TCCP-264 and that none of the Parties would be prejudiced by this request. The KHIEU Samphan Defence filed its response on 12 October 2016 objecting to the Request.

The Chamber recalls that on 28 June 2016 it notified the Parties that the Civil Parties would be accorded one day, instead of two days, for the harm suffered hearings on the trial topic of Regulation of Marriage, noting the large number of Civil Parties selected. (Document E421).

While the Chamber notes the Lead Co-Lawyers' submission that Civil Party 2-TCCP-264 has since been found unfit to testify for medical reasons and has been withdrawn from the list of appearances in relation to the trial topic of Regulation of Marriage (Document E29/493/2), it also notes that it has added Civil Parties 2-TCCP-283 and 2-TCCP-1064 to its list. Overall, 16 Civil Parties have testified or will testify during the course of Case 002/02 on this topic, 9 of whom are appearing during the segment on Regulation of Marriage.

The Chamber therefore finds that its original reasoning allocating one day to these hearings is still valid and it denies the Lead Co-Lawyers' request for an additional day. The Chamber orders Lead Co-Lawyers to file a revised submission of the list of Civil Parties to testify during the hearings on harm suffered for the Fifth Segment, with a proposed

schedule of one day.

Oral submissions on the NUON Chea Defence's request pursuant to Internal Rules 87(3), 87(4) and 93

The Trial Chamber heard submissions of the Parties regarding the Co-Prosecutor's request pursuant to Internal Rules 87(3) and 87(4) to admit eight documents as evidence and pursuant to Internal Rule 93 to obtain documents in relation to Expert 2-TCE-98. The Chamber reserved ruling.

Hearing of 2-TCW-960 (Mr. CHEAL Choeun)

The Trial Chamber questioned Witness 2-TCW-960.

New E3s

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/10682	E319/52.3.1	01075670- 01075692; 01104752- 01104774; -	[Redacted] Written Record of Interview Witness [Redacted] dated 10-03-2015]	C	-	-	-
E3/10682A	E319/52.3.1A	01075693; 01226350; -	Sketch of Places	C	-	-	-
E3/10683	E319/52.3.3	01068121- 01068153; 01106425- 01106448; -	[Redacted] Written Record of Interview Witness [Redacted], Dated 17-02-2015	C	-	-	-
E3/10684	E319/58.2.4	01068105- 01068117; 01104742- 01104751; -	[Redacted] Written Record of Interview Witness [Redacted], Dated 17-02-2015	C	-	-	-
E3/10681.1	E319/52.2.17.1	01201764; - -	Annex A	C	-	-	-
E3/10681.2	E319/52.2.17.2	01201765; - -	Annex B	C	-	-	-
E3/10681.3	E319/52.2.17.3	01201766; - -	Annex C	C	-	-	-
E3/10681.4	E319/52.2.17.4	01201767; - -	Annex D	C	-	-	-
E3/10681.5	E319/52.2.17.5	01201768; - -	Annex E	C	-	-	-

Reclassified

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/7233R	-	V01003968- V01003968	Red Wedding, DVD, directed by Lida Chan and Guillaume Suon	P	00:09:40- 00:11:30 00:19:28; 00:19:35; 00:31:22- 00:34:26; 00:32:12; 00:41:00- 00:43:00	00:09:40- 00:11:30 00:19:28; 00:19:35; 00:31:22- 00:34:26; 00:32:12; 00:41:00- 00:43:00	-
E3/9197	E305/13.23.5	KH&ENG 00992315- 00992374; -	The Past and the Present of Forced Marriage Survivors; experience towards healing	P	00992328; 00992329	00992330; 00992331	-
E3/6034a	D22/620a	00579598- 00579599; 00873734- 00873735; 01140085- 01140086	Supplementary information of civil party applicant	P	00579598	00873734	01140085;
E3/4779	D22/620	00499821- 00499829; 00891278- 00891281; 00900947- 00900960	Civil party application of PEN Sochan 09-VU01589	P	00499825	00891279; 00891280	00900951;00900952
E3/4001R	E3/4001R	V00800935- V00800935	Additional footage: Videoconference-victims and perpetrators	P	00:05:22	00:05:22	-

Other documents (No Change)

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/6034b	E319/51.3.3	01049446- 01049458; 01143724- 01143732; -	Civil party application of PEN Sochan ប៉ែន សុផាន់ 13-VSS-00326	C	01049457	01143726; 01143732	-
E3/10681	E319/52.2.17	01201719- 01201759; 01213331- 01213358; -	Written Record of Interview witness [Redacted]	C	01201728	01213337	-
E3/216	-	00008485- 00008493; 00850973- 00850978; 00343374- 00343380	Note about permanent visited and the report about overall situation at the basic	P	00008486	00850974	00343375
E3/4202	-	00858214- 00858410; 00757471- 00757568; 00849349- 00849484	Book by GINA Chon and THET Sambath entitled “Behind the killing fields: a Khmer Rouge leader and one of his victims”	P	00858343	00757532	00849437- 00849438

Oral Orders/Decisions:
<ul style="list-style-type: none">• Order authorising 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 (09:05).• Oral Ruling on the Co-Prosecutor’s requests pursuant to Internal Rules 87(3) and 87(4) to Admit Documents as Evidence and admission of new evidence <i>proprio motu</i> (13:32 to 13:39).• Oral Ruling on the Lead Co-Lawyer for the Civil Parties’ request to be granted an additional day for the impact hearings (13:39 to 13:42).• Order to take the Accused to the Detention Facility and bring him back to court for the Hearing on Monday 17 October 2016 (16:08).

The hearing will resume on Monday 17 October 2016 at 9:00am.

Greffier

Greffier

Wm



Mr HEM Hoy

Kg 276

Mr. Roger PHILLIPS