



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 Nation Religion King ព្រះរាជាណាចក្រកម្ពុជា ជាតិ សាសនា ព្រះមហាក្សត្រ ORIGINAL DOCUMENT/DOCUMENT ORIGINAL ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception): 25 / 10 / 2012 ម៉ោង (Time/Heure) : 14 h មន្ត្រីទទួលបន្ទុកសំណុំរឿង /Case File Officer/L'agent chargé du dossier: SANN RADA

អង្គជំនុំជម្រះសាលាដំបូង
 Trial Chamber
 Chambre de première instance

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

03 October 2012

Substantive Hearing on evidence – Day 116

Prepared by:

Matteo CRIPPA and SE Kolvuthy

Attendance Record
Before: Judge NIL Nonn (President), Judge Jean-Marc LAVERGNE, Judge YA Sokhan, Judge YOU Ottara, Judge Silvia CARTWRIGHT.
Reserve Judges: Judge THOU Mony, Judge Claudia FENZ.
Greffiers: Ms. SE Kolvuthy, Mr. Matteo CRIPPA, Mr. DUCH Phary, Mr DAV Ansan.
OCP: Mr. VENG Huot, Mr. Tarik ABDULHAK, Mr. Dale LYSAK.
Accused: Mr. KHIEU Samphan, Mr. NUON Chea.
Defence for the Accused: Mr. SON Arun, Mr. Andrew IANUZZI, Mr. KONG Sam Onn, Ms. Anta GUISSSE, Mr. Michael G. KARNAVAS, Mr. ANG Udom.
Civil Parties: Ms. Elisabeth SIMONNEAU-FORT, Mr. PICH Ang, Mr. LOR Chunthy, Mr. VEN Pov, Ms. Christine MARTINEAU, Ms. Martine JACQUIN.
Witness: Mr. MEAS Voeun alias SVAY Voeun (TCW-428).
Others: Ms. Eleanor DOYLE-MARKWICK, Mr. SENG Rethy (Duty Counsel), Mr. UCH Arun, Ms. SOUR Sotheavy.

General court times		
Day	Start time: 9:00	Finish time: 16:00
Recess am	Start time: 10:30	Finish time: 10:50
Recess	Start time: 12:30	Finish time: 13:50
Recess pm	Start time: 14:40	Finish time: 15:00
	Total Court Time:	5 hours

Proceedings			
Type of Issue	Raised By	Start time	Finish time
Waiver of the Accused's right to be directly present for the hearing of Witness TCW-428	IS Defence	9:03	9:04
Reading out of paragraphs of the Closing Order	TC	9:04	12:04
Ruling on scope of testimony / questioning of Witness TCW-428	TC	12:04	12:07
NC Defence applications	NC Defence	12:08 12:17	12:15 12:27
TC ruling on NC Defence applications	TC	12:15 13:47	12:17 13:55
Testimony of Witness MEAS Voeun (TCW-428)	TC OCP	13:56 14:07	14:07 16:00

Summary of Proceedings

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

The Accused IENG Sary waived his right to be present in the courtroom for the whole day pursuant to Internal Rule 81.5 for the questioning of Witness MEAS Voeun (TCW-428).

Reading out of paragraphs of the Closing Order

The Greffiers continued reading aloud those paragraphs of the Closing Order relevant to segment 3 (military structure, joint criminal enterprise and movement of the population) of Case 002/01.

Ruling on scope of testimony / questioning of Witness TCW-428

The OCP requested to place on the case file an interview with the Witness from 2010, pursuant to Internal Rule 87(4). Generally, documents can only be admitted under this rule if they were unavailable before the opening of the trial or could not have been

discovered with the exercise of due diligence. The Chamber noted that the proposed document was available when the Chamber notified the parties on 25 October 2011 that the Witness might be called to testify, although it was created after the opening of the trial. The OCP request came one year after being notified that the Witness may testify and on the eve of his testimony. Moreover, the proposed document was only available in Khmer until a few days before the Witness was scheduled to testify, giving the parties and the Chamber little time to assess the 40 page document. The Chamber therefore rejected the OCP request on the basis that it was not timely.

TC ruling on NC Defence applications

The Chamber ruled as follows on three applications made by the NUON Chea Defence:

1. The Chamber stated that it would consider the request for the Accused NUON Chea to comment on the passages of the Closing Order that were read by the greffiers;
2. The Chamber granted the request for the Accused NUON Chea to follow proceedings remotely; and
3. The Chamber reiterated its consistent, unanimous position that confessions obtained contrary to the provisions of the CAT cannot be used as evidence or as the basis for questioning, in response to a request to exclude portions of the Witness' statement (E3/80) that relate to the substance of a confession obtained through torture.

Testimony of Witness MEAS Voeun (TCW-428)

The OCP began questioning the Witness.

Record of Rule 87(3) Proceedings

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
E3/80	D369 /7	00486468-00486473 00491653-00491658 00509783-00509789	កំណត់ហេតុនៃការស្តាប់ចម្លើយសាក្សី MEAS Voeun មាស រៀន ចុះថ្ងៃទី 03-03-2010 [Corrected 1] Written Record of Interview of Witness MEAS Voeun មាស រៀន dated 03-03-2010 [Corrigé 2] Procès verbal d'audition de témoin MEAS Voeun មាស រៀន en date du 03-03-2010	P	00486472	00491657	00509787-88


		កំណត់ហេតុនៃការស្តាប់ចម្លើយសាក្សី			
	00418517-	មាស រឿន MEAS Voeun			
	00418523				
E3/424	D234	[Corrected 1] Written Record of Interview of	P	00418518-	00784178-
	/25	MEAS Voeun មាស រឿន		19	79
	00421068-				00455267-
	00421074				68
	00455266-	[Corrigé 2] Procès verbal d'audition de			
	00455272	témoïn MEAS Voeun មាស រឿន			

Oral Orders/Decisions:


- Order allowing the Accused IENG Sary to waive his direct presence in the hearing of this Witness pursuant to Rule 81.5 of the ECCC Internal Rules.
- Order allowing the Accused NUON Chea to participate from his holding cell (waiver of the Accused is attached to this written record).
- Order to bring the Accused NUON Chea and KHIEU Samphan back to the detention facility and to return them to the courtroom for the hearing on 04 October 2012.
- Order to arrange for the Witness TCW-428 to go to his accommodation and return to the courtroom tomorrow morning.

Orders for Adjournment of Hearing
 The hearing will resume on 04 October 2012 at 9:00 a.m. ✓

Phnom Penh, 03 October 2012

Greffier

 Matteo CRIPPA



Greffier

 SE Kolvuthy