



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

E1/135

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 Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

19 October 2012

Substantive Hearing on evidence – Day 122

Prepared by:

Matteo CRIPPA and DUCH Phary

<u>Attendance Record</u>
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 Kovuthy, Mr. DUCH Phary, Mr. Matteo CRIPPA.
OCP: Mr. VENG Huot, Ms. SONG Chorvoin, Mr. Keith RAYNOR.
Accused: Mr. KHIEU Samphan, Mr. NUON Chea.
Defence for the Accused: Mr. SON Arun, Mr. Andrew IANUZZI, Mr. KONG Sam Onn, Mr. Arthur VERCKEN, Mr. ANG Udom.
Civil Parties: Ms. Elisabeth SIMONNEAU-FORT, Mr. PICH Ang, Mr. SAM Sokong, Mr. LOR Chunthy, Ms. SIN Soworn.
Civil Party: Ms. YIM Sovann (TCCP-169)
Others: Ms. Sonia MESSAOUDI.

General court times		
Day	Start time: 9:05	Finish time: 16:25
Recess am	Start time: 10:25	Finish time: 10:55
Recess	Start time: 12:00	Finish time: 13:45
Recess pm	Start time: 14:40	Finish time: 15:00
	Total Court Time:	4 hours and 45 minutes

Proceedings			
Type of Issue	Raised By	Start time	Finish time
Waiver of the accused to be present in the courtroom	IENG Sary NUON Chea	9:06	9:07
		11:59	12:00
Presentation of documents relating to the administrative and communication structures during the DK period	CPLCL NUON Chea	9:10	10:25
		10:56	11:30
Ruling on KS Defense request about the use of documents E3/122	TC	9:41	9:44
Ruling on NC Defense request for clarification concerning the procedure for the presentation of documents by the parties	TC	9:46	9:54
Ruling on documents to be presented by the NUON Chea Defense	TC	10:55 13:46	12:00 13:48
Warning against the international defence lawyer for NUON Chea, Mr. Ianuzzi	TC	13:48	13:50
Testimony of Civil Party Ms. YIM Sovann (TCCP- 169)	TC CPLCL OCP	13:51	13:57
		14:01	15:50
		15:51	16:13

Summary of Proceedings

Waiver of the accused to be present in the courtroom

The accused IENG Sary waived his right to be present directly in the courtroom for the whole day due to his health issue (9:06).

The accused NUON Chea waived his right to be present in the courtroom for the afternoon session (11:58).

Presentation of documents relating to the administrative and communication structures during the DK period

The CPLCL concluded their presentation of documents they consider most relevant to the administrative and communication structures of the DK regime. The NUON Chea Defense made a presentation of their proposed documents on the same subject, while the IENG Sary and KHIEU Samphan Defense teams indicated that they did not have any specific document to put before the Chamber.

Ruling on KS Defense request about the use of documents E3/122

The KHIEU Samphan Defense objected to the use of document E3/122 which consists of notes taken by journalists without any audio recording. The Chamber overruled the objection, stating that it will consider the probative value of this evidence in its judgment.

Ruling on NC Defense request for clarification concerning the procedure for to the presentation of documents by the parties

The NUON Chea Defense asked whether the defense may not object to anything that was said during the presentation of documents unless their client submits to questioning or comment on documents. The Chamber reiterated its ruling of the 10 October 2012 on the right of the accused to comment on the documents presented by the other parties. These comments should be made after the other party has completed their presentation.

Ruling on documents to be presented by the NUON Chea Defense

The Chamber informed the NUON Chea Defense that documents E119.1.398 and E3/9 cannot be submitted before the Court at this juncture. The first document, a publication written by Philip Short, can be presented during the testimony of this expert. Concerning the second document, a publication by Stephen Heder, no decision has not been taken yet. However, if Stephen Heder is summoned before the Chamber, then the document can be presented, otherwise the Chamber will provide another opportunity to present the document.

The NUON Chea Defence subsequently indicated that the Co-Prosecutors were permitted on 10 October 2012 to use document E3/89 which is authored by Stephen Heder. OCP stated that it was documents E3/724 and E3/731 which are summaries of the Revolutionary Flags prepared either by Stephen Heder or Professor Ben Kiernan. The Chamber stressed that it did not intend to amend its decision to postpone the presentation of document authored by Stephen Heder until the Chamber decides whether this shall be summoned testify as such postponement is entirely consistent with the good administration of justice.

Warning against the international defence lawyer for NUON Chea, Mr. Ianuzzi

Over the course of the morning hearing, Mr. Ianuzzi proceeded to make several comments with a view to contest or criticize the decisions issued by the Chamber on the conduct of the proceedings. Because of his entirely inappropriate behaviour, the Chamber warned Mr. Ianuzzi that pursuant to Internal Rule 38 on misconduct of a lawyer, continuance of such behaviour may lead to refusal of his participation in the proceedings and a refusal of audience.

Testimony of Civil Party Ms. YIM Sovann (TCCP-169)

The Trial Chamber started questioning the civil party, followed by the Civil Party Lead Co-Lawyers and the Co-Prosecutors. All the Defense teams indicated that they did not have any questions to put to the civil party.

<u>Record of Rule 87(3) Proceedings</u>				
TC Ref Number	OCIJ Ref Number	Name/Description	Party/TC	Remarks (ERN)
E109/2.3		Video Survive in the heart of the Khmer rouge madness	CPLCL	1mn 30s. to 28mn 20s.
IS 9.1		Statute of Cambodian Communist party	CPLCL	00184038-45 (EN) 00053025-33 (KH)
E3/18		Book by KHIEU Samphan entitled : "Cambodia's recent history and the reasons behind the decision I made"	CPLCL	00103785 (EN) 00103883 (KH) 00598497 (FR)
E3/122		Attachment 81: Meng-Try Ea and Sopheak Loeng's interview with KHIEU Samphan on 9, 10, 11th June 2006	CPLCL	00000926 (EN) 00613201 (FR) 00347033 (KH) 00000929-30 (EN) 00613204-05 (FR) 00347037-39 (KH) 00000932 (EN)

				00613208 (FR) 00347042-43 (KH) 00000933 (EN) 00613210 (FR) 00347046 (KH)
E3/204		Voice of America Interview with KHIEU Samphan - 14 November 2007	CPLCL	00680033-34 (EN) 00424211-12 (KH) 00656178-79 (FR)
	D22/289	Civil party application of CHAU Khim	CPLCL	00490612-18 (EN) 00478700-708 (KH) 00794408-16 (FR)
	D22/289.21	Annexe 21: Interview de CHAU Seng au nom du Front Uni National du Kampuchea	CPLCL	
	D22/289.11	Annexe 11: Lettre de CHAU Seng à sa femme	CPLCL	00806052 (EN) 00797532-33 (KH) 00481462-63 (FR)
	D22/289.14	Annex 14: List of the repatriats from foreign countries between 1975 to 1976	CPLCL	00481501-18 (EN) 00788312-39 (KH)
	D22/44	Civil party application of Ms LEFEUVRE Martine	CPLCL	
	D22/44.11	Annex 11: Letter from khmer Embassy in Beijing requesting OUK Ket to come back	CPLCL	00326564 (EN) 00281227 (KH) 00338993 (FR)
	D22/44.13	Annex 13: List of prisoners destroyed on 9 December 1977	CPLCL	00328268 (EN) 00339169 (FR) 00281230 (KH)
	D22/289.17	Annexe 17: Liste des "Khmers de l'étranger" tués à Tuol Sleng entre Avril	CPLCL	

		1975 et Janvier 1979		
E3/200		Speech of KHIEU Samphan at Anniversary Meeting on 15 April 1977	CPLCL	S 00004164 (EN) 00292804 (KH) 00612165 (FR)
E3/1568		RETYPE from a Handwritten interview of CHEA Sim, Phnom Penh, 3 December 1991, and HENG Samrin, Phnom Penh, 2 December 1991	NC Defense	00651878-80 (EN) 00713945-48 (KH) 00743349-51 (FR) 00651884 (EN) 00713955 (KH) 00743356 (FR)
	D246/4	Written Record of Interview of Civil Party YIM Sovann - 27 August 2009	CPLCL OCP	00379313 (EN) 00485887 (FR) 00373424 (KH) 00379315 (EN) 00485889 (FR) 00373426 (KH)
E163/5		Trial Chamber Memorandum entitled "Notification of decision on Co-Prosecution's request to include additional crimes sites within the scope of Trial in case 002/01 (E163) and deadline for submissions of applicable law portion of closing briefs"	NC Defense	


Oral Orders/Decisions:


- Order allowing the Accused NUON Chea to participate from his holding cell (waiver of the Accused are 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 22 October 2012.

Orders for Adjournment of Hearing

The hearing will resume on 22 October 2012 at 9:00 a.m.

Phnom Penh, 19 October 2012

Greffier  Greffier

Matteo CRIPPA  DUCH Phary