



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

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| <p>ព្រះរាជាណាចក្រកម្ពុជា ORIGINAL DOCUMENT/DOCUMENT ORIGINAL ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): ០៧ / ១២ / ២០១២ ពេលវេលា (Time/Heure): ១៥:០០ អគ្គិសនីធានាឯកសារឯកសារ/Case File Officer/L'agent chargé du dossier: SANN DA DA</p> |
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អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

24 October 2012

Substantive Hearing on evidence - Day 125

Prepared by:

Roger PHILLIPS and SE Kolvuthy

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| <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 Kolvuthy, Mr. Roger PHILLIPS, Mr. DUCH Phary. |
| OCP: Mr. CHAN Dararasmey, Mr. Vincent DE WILDE D'ESTMAEL, Mr. HUOT Veng, Mr. Tarik ABDULHAK. |
| Accused: Mr. KHIEU Samphan, Mr. NUON Chea. |
| Defence for the Accused: Mr. SON Arun, Mr. Jasper PAUW, Mr. KONG Sam Onn, Mr. Michael G. KARNAVAS, Mr. ANG Udom. |
| Civil Parties: Ms. Elisabeth SIMONNEAU-FORT, Mr. PICH Ang, Ms. MOCH Sovannary, Mr. VEN Pov, Ms. CHET Vanly, Ms. BEINI Ye, Ms. Lyma NGUYEN. |
| Civil Party: LAY Bony (TCCP-64) |
| Witness: KUNG Kim alias Kae (TCW-362) |
| Others: Ms. Sonia MESSAOUDI, LIM Bunbeng (duty counsel), Mr. Arun UCH, Ms. |

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| <u>General court times</u> | | |
|----------------------------|-------------------|------------------------|
| Day | Start time: 9:00 | Finish time: 16:05 |
| Recess am | Start time: 10:40 | Finish time: 11:05 |
| Recess | Start time: 12:20 | Finish time: 13:30 |
| Recess pm | Start time: 14:45 | Finish time: 15:05 |
| | Total Court Time: | 5 hours and 10 minutes |

| <u>Proceedings</u> | | | |
|---|--------------------|------------|-------------|
| Type of Issue | Raised By | Start time | Finish time |
| Waiver of the Accused's right to be present in the courtroom | IENG Sary | 9:03 | 9:04 |
| | | 13:39 | 13:41 |
| | NC Defence | 12:17 | 12:18 |
| Absence of the international lawyer for KHIEU Samphan | TC | 9:04 | 9:05 |
| Hearing of Civil Party LAY Bony (TCCP-64) | CPLCL | 9:06 | 9:58 |
| | OCP | 9:58 | 10:36 |
| | NC Defense | 11:04 | 11:55 |
| | LAY Bony (TCCP-64) | 11:58 | 12:15 |
| IENG Sary Defense's request about the scope of the civil party's statement expressing her suffering | IS Defense | 13:34 | 13:39 |
| Testimony of the Witness KUNG Kim alias Kae (TCW-362) | TC | 13:43 | 13:49 |
| | OCP | 13:50 | 16:03 |
| Absence of national lawyer for the Civil Party for next day's session | CPLCL | 16:04 | 16:04 |

| <u>Summary of Proceedings</u> | | | |
|---|--|--|--|
| <u>Waiver of the Accused's right to be present in the courtroom</u> | | | |
| <p>The accused IENG Sary waived his right to be present directly in the courtroom for the whole day due to his health issues (9:03).</p> <p>The Trial Chamber stated it received a medical report from the hospital indicating that Mr. IENG Sary is still being treated at the hospital at the Khmer Soviet Friendship Hospital and that he has waived his right to the testimony of 10 other civil parties and witnesses.</p> | | | |

The accused NUON Chea waived his right to be present in the courtroom for the afternoon session (12:17).

Absence of the international lawyer for KHIEU Samphan

The Trial Chamber stated the absence of the international lawyer for KHIEU Samphan, Mr. VERCKEN, due to personal commitments.

Hearing of the Civil Party LAY Bonv (TCCP-64)

The Civil Party Lead Co-Lawyers continued questioning the Civil Party, following by NUON Chea Defense counsels. IENG Sary and KHIEU Samphan Defense teams had no questions to put to this civil party. Finally, the Civil party expressed herself about her suffering and injuries.

IENG Sary Defense's request about the scope of the civil party's statement expressing her suffering

IENG Sary Defence asked whether the statement of the civil party expressing her suffering which is outside the scope of the case file, can be used as evidence, when the parties were not given opportunity to challenge such statement.

The Chamber will rule more specifically in due course upon receiving the written submissions made by the Civil Party Lead Co-Lawyers.

However, regarding the weight of evidence, the Chamber stated that it will consider the facts raised during the examination based at its discretion.

Testimony of the Witness KUNG Kim alias Kae (TCW-362)

The Trial Chamber put questions to the witness, followed by the Co-Prosecutors.

Absence of National Civil Party Lead Co-Lawyers for the next day's session

M. PICH Ang, the national lawyer for the Civil Party informed the Chamber he will be absent the next day.

Record of Rule 87(3) Proceedings

| TC No | OCIJ No | ERN | Title | Class | Note in Khmer | Note in English | Note in French |
|-------|---------|-----|-------|-------|---------------|-----------------|----------------|
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|---------|-------------|---|--|---|---|---|---|
| E3/3958 | D246 /3 | 00373243- 00373256 00379154- 00379165 00422445- 00422458 | កំណត់ហេតុនៃការស្តាប់ចម្លើយដើមបណ្តឹង ឯកភាពដោយ LAY Bony ឡាយ បូនី Written Record of Interview of Civil Party LAY Bony ឡាយ បូនី Procès verbal d'audition de partie civile Mme LAY Bony ឡាយ បូនី | P | 00373249- 50, 00373255- 56 | 00379159- 60, 00379164 | 00422451- 452, 00422457- 58 |
| E3/3959 | D166 /74 | 00270162- 00270170 00278680- 00278687 00486095- 00486101 | កំណត់ហេតុនៃការស្តាប់ចម្លើយសាក្សី គង់ តឹម KUNG Kim Written Record of Interview of KUNG Kim Procès verbal d'audition de KUNG Kim | P | 00270163- 65, 00270165- 66 | 00278681- 83, 00278683- 84 | 00486096- 97, 00486098 |
| E3/3960 | 19.96 | 00054815- 00054873 00184120- 00184124, 00633857- 00633907 00403335- 00403382 | បទសម្ភាសន៍របស់មជ្ឈមណ្ឌលឯកសាកម្ម ជា ជាមួយ ឡេង តឹម ហៅ គង់ តឹម អាយុ ៤៦ឆ្នាំ, សរសេរជាភាសាខ្មែរ សម្ភាសន៍ដោយ អ៊ីសា ឧស្មាន, វ៉ាន់ថាន់ ពៅដាក់ និង ជាន់ សុជា នៅថ្ងៃទី០៩ ខែកក្កដា ឆ្នាំ២០០២ DC-Cam Statement of LENG Kim alias Kung Kim. DC-Cam Statement of LENG Kim alias Kung Kim. | P | 00054834- 36, 00054839- 40, 00054856, 00054850, 00054843- 44 | 00633874- 75, 00633878- 79, 00633892, 00633887, 00633881- 82 | 00403350- 51, 00403354- 55, 00403369, 00403363, 00403357- 58 |
| E3/1891 | 5.89 | 00017526- 00017945 00828043- 00828064, 00096817- 00096834 00788257- 00788289 | ចម្លើយសារភាពរបស់ស្មូរហ៊ឹម ហៅអៀនជាភាសាខ្មែរនៅថ្ងៃទី១៧កុម្ភៈ១៩ ៧៧ English summary of S-21 Confession of SBAUV Him alias Euan [Partial T.] Aveux de SBAUV Him alias EUAN ou Oeun à S-21 | P | | | |

Oral Orders/Decisions:


- 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 Civil Party LAY Bony (TCCP-64) back to her home.
- Order to bring Witness KUNG Kim (TCW-362) to his accommodation and bring him back to the courtroom for the hearing on 25 October 2012.
- 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 25 October 2012.

Orders for Adjournment of Hearing

The hearing will resume on 25 October 2012 at 9:00 a.m.

Phnom Penh, 24 October 2012

Greffier


Roger PHILLIPS



Greffier


SE Kolvuthy