



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

<b>ឯកសារដើម</b>
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):
..... ១៥ / ០២ / ២០១៥ .....
ម៉ោង (Time/Heure) : .....
..... ១៥ : ០០ .....
Case File Officer/L'agent chargé
du dossier: <i>SAMPHAN</i>

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

5 February 2015

Substantive Hearing on Evidence 002/02 – Day 238

Prepared by:

SE Kolvuthy and Matthew McCARTHY

<b>Attendance Record</b>
<b>Before:</b> Judge NIL Nonn (President); Judge Claudia FENZ; Judge YA Sokhan; Judge Jean-Marc LAVERGNE; Judge YOU Ottara
<b>Reserve Judges:</b> Judge THOU Mony (Reserve); Judge Martin KAROPKIN (Reserve)
<b>Greffiers:</b> Mrs. SE Kolvuthy; Ms. Sivhoang CHEA; Mr. Matthew McCARTHY
<b>OCP:</b> Mr. SENG Bunkheang; Ms. SONG Chorvoin; Mr. Dale LYSAK; Mr. Vincent de WILDE d'ESTMAEL; Mr. Sin Sovanna; Mr. BOU Chanthan
<b>Accused:</b> Mr. NUON Chea (from the holding cell); Mr. KHIEU Samphan
<b>Defence for the Accused Noun Chea:</b> Mr. SON Arun; Mr. SUON Visal; Mr. Victor KOPPE
<b>Defence for the Accused Khieu Samphan:</b> Mr. KONG Sam Onn
<b>Standby Counsel for the Accused Khieu Samphan:</b> Ms. TOUCH Voleak; Mr. Calvin SAUNDERS
<b>Civil Parties:</b> Mr. PICH Ang; Ms. Marie GUIRAUD; Mr. LOR Chunthy; Mr. VEN Pov; Ms. CHET Vanly; Ms. MOCH Sovannary; Ms. Martine JACQUIN; Mr. Mahesh Rai
<b>Witness:</b> Mr. SÂY Sen (2-TCCP-271)
<b>Others:</b> Mr. UCH Arun (Court Officer), Ms. SOUR Sotheavy (Associate Court Officer);

*3/2*

Ms. PICH Chariya, Mr. NOU Monoraoth, Ms. SOK Sopheakmonica, Mr. VAT Somoa (Transcribers); Mr. Mario D'ALESSANDRO; Ms. Tauch Tanneary

#### General court times

Day	Start time: 09:00	Finish time: 16:05
Recess am	Start time: 10:15	Finish time: 10:35
Recess	Start time: 11:45	Finish time: 13:35
Recess pm	Start time: 14:30	Finish time: 15:05
	Total Court Time:	4 hours 20 minutes

#### Proceedings

Type of Issue	Raised By	Start time	Finish time
Opening of hearing and report on attendance of parties	Trial Chamber, Greffier	09:00	09:05
Request to follow the proceedings from the holding cell	NUON Chea Defence Trial Chamber	09:05	09:07
Recognition of new Civil Party lawyer	Civil Party Lawyers Trial Chamber	09:08	09:10
KHIEU Samphan Defence objection	KHIEU Samphan Defence Co-Prosecutor Trial Chamber	09:11	09:13
Continuation of Testimony of Witness SAY Sen (2-TCCP-271)	Co-Prosecutor	09:15	10:45
	Trial Chamber	10:45	15:38
	NUON Chea Defence	15:38	16:04
Request to hold closed session hearings	Civil Party Co-Lawyer	11:35	11:38
		13:36	13:38
	NOUN Chea Defence	11:39	11:40
		13:39	13:40
	KHIEU Samphan defence Trial Chamber	11:41 11:43	11:43 11:44
Oral ruling on closed session hearings	Trial Chamber	13:42	13:43
Discussion about the grounds for granting a closed session (closed session)	Civil Party Co-Lawyer Civil Party Trial Chamber Co-Prosecutor NOUN Chea Defence KHIEU Samphan defence	13:45	14:26
Decision on the Civil Party request for a closed session	Trial Chamber	15:05	15:10

#### Summary of Proceedings

**Opening of the Substantive Hearing**

The President opened the proceedings and the Greffier informed the Chamber that all parties were present except for the KHIEU Samphan Defence Co-Lawyer and accused NOUN Chea. NUON Chea was present in his holding cell.

**NUON Chea request to follow the hearing from the holding cell**

NUON Chea Defence requested to follow the proceedings from the holding cell and waived his right to follow the proceedings from the courtroom. The Trial Chamber granted the request.

**Recognition of new Civil Party lawyer**

Upon request of the Civil Party Co-Lawyer, the Trial Chamber recognized Mr. Mahesh Rai as International Lawyer for Civil Parties for the purpose of proceedings before the Court.

**KHIEU Samphan Defence objection**

KHIEU Samphan Defence requested the Chamber to instruct to the Co-Prosecutor not to list the names of the Standby Counsel for the Accused Khieu Samphan in its filings in the section of the cover page listing the KHIEU Samphan Defence.

**Continuation of testimony of Civil Party 2-TCCP-271**

The Co-Prosecutor resumes the questioning of 2-TCCP-271, followed by the Trial Chamber, NOUN Chea Defence, and KHIEU Samphan Defence.

**Request to hold in camera hearings**

Due to 2-TCCP-271's safety concerns, Civil Party Co-Lawyer requested that the Chamber conduct the current proceedings in-camera. NUON Chea Defence and KHIEU Samphan Defence objected based on the untimeliness of the request and the lack of substantive reasons for the request.

After the midday adjournment, the Chamber heard the 2-TCCP-271's submissions, ordering the AV-Unit to discontinue the public audio feed for that purpose. The Chamber then recessed to deliberate.

The Chamber, through Judge Fenz, then stated that it did not have sufficient information in order to decide the issue and postponed its ruling. The Chamber will request a report from the Witness Protection Unit. In order to preserve the objective of the request, the Chamber disallowed questions regarding the identity of cadres and informed 2-TCCP-271 that for the time being he could refuse to answer questions that would Krang Ta Chan staff members.

**Oral ruling on closed session hearings**

The Trial Chamber granted the Civil Party Co-Lawyer requests to continue with the hearings in closed session in order to give the opportunity to Civil Party Co-Lawyer to explain the grounds on which the request is based. The Trial Chamber instructed the AV Unit to disconnect the audio of the proceedings.

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/5214		00223055- 00223070 00225500- 00225513 00702886- 00702902	[Corrected 1] Written Record of Interview of SÂY Sen	P	00223058 00223064 00223068	00225503 00225508 00225511	00702889 00702895 00702899
E327/4		01060742- 01060748 01060737- 01060741 N/A	Co-Prosecutor's objections and reservations to parties' proposed documents list in response to the Trial Chamber's memorandum E327 and request to obtain documents	P	01060742- 01060748	01060737- 01060741	N/A
E321/2		01044402- 01044412 01044384- 01044391 01044392- 01044401	Decision on the Appointment of Court Appointed Standby Counsel for KHIEU Samphan	P	01044402- 01044412	01044384- 01044391	01044392- 01044401
E3/4095		00271089- 00271131 00747236- 00747298 00721205- 00721272	5th confession entitled "Contemptible traitors POL Pot and IENG Sary"	P	00271090 00271091	00747237	00721206
E3/4101		00271034- 00271039 00322124- 00322129 00854216- 00854221	Report to the Party on Kim Vanny, a Chinese	P	00271039	00322129	00854221
E3/5827		00270855- 00270897 00866424- 00866463 00872799- 00872835	[Partial.T] Victim's background	P	00270883 00270884 00270886 00270891	00866446 00866447 00866450 00866456	00872822 00872824 00872829
E3/5841	D22/1370	00527699- 00527714 N/A 01057605- 01057614	Demande de constitution de partie civile de SÂY Sen 08-VU-00071	P	00527705	N/A	01057607

E3/4145	00068730- 00068738 00762837- 00762847 00761093- 00761103	List of prisoner suggested to Party to kill	P	00068730 00068736	00762837 00762844	00761093 00761100
E319.1.24	00960627- 00960641 00969617- 00969633 00973016- 00973029	Written Record of Interview of SAY Sen សយ សែន	C	00960638- 00960639	00969630- 00969631	00973026- 00973028
E305/13/1.3.17	01023436- 01023439	Media Report about SAY Sen entitled "Prisoner recounts horrors at Kraing Ta Chan Prison" (Cambodian Daily)	C	N/A	01023438	N/A
E3/4846	00527717- 00527770 00527771- 00527796 00943267- 00943276	[Partial T.] DC-CAM Document "Interview with Soy Sen"	P	00527724	00527774	

**Oral Orders/Decisions:**

- 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 holding cell.
- To hear 2-TCCP-271's submissions for in-camera proceedings, the Trial Chamber instructed the AV Unit to disconnect the audio of the proceedings. After recessing and deliberating, the Trial Chamber instructed the AV Unit to re-connect the audio of the proceedings.
- Order to the security personnel to bring the two Accused back to detention facilities and to return them back in the courtroom for the hearing on 6 February 2015 at 09:00 am.



**Orders for Adjournment of Hearing**

The hearing will resume on 6 February 2015 at 09:00 am. *gd*

Phnom Penh, 5 February 2015

Greffier

Greffier

SE Kolvuthy

McCARTHY

