



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

អង្គជំនុំជម្រះតុលាការកំពូល

Supreme Court Chamber

Chambre de la Cour suprême

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 17-Jun-2015, 15:37
CMS/CFO: Sann Rada

សំណុំរឿងលេខ: ០០២/១៩-កញ្ញា-២០០៧-អ.វ.ត.ក/អ.ជ.ត.ក

Case File/Dossier N°. 002/19-09-2007-ECCC/SC

Before:

Judge KONG Srim, President

Judge Chandra Nihal JAYASINGHE

Judge SOM Sereyvuth

Judge Agnieszka KLONOWIECKA-MILART

Judge MONG Monichariya

Judge Florence Ndepele MWACHANDE-MUMBA

Judge YA Narin

Date:

17 June 2015

Language(s):

Khmer/English

Classification:

PUBLIC

DIRECTIONS ON THE CONDUCT OF THE HEARING

Co-Prosecutors

CHEA Leang

Nicholas KOUMJIAN

Co-Lawyers for NUON Chea

SON Arun

Victor KOPPE

Accused

KHIEU Samphân

NUON Chea

Co-Lawyers for KHIEU Samphân

KONG Sam Onn

Anta GUISSÉ

Arthur VERCKEN

Civil Party Lead Co-Lawyers

PICH Ang

Marie GUIRAUD

THE SUPREME COURT CHAMBER of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea between 17 April 1975 and 6 January 1979 (“Supreme Court Chamber” and “ECCC”, respectively);

NOTING the Scheduling Order,¹ in which the Supreme Court Chamber scheduled a hearing for 2, 3, 6 and 7 July 2015, as necessary, to hear the testimonies of SCW-3, SCW-4 and SCW-5 (“Scheduled Hearing”);

RECALLING that the Scheduling Order proposed a tentative timetable, on which the parties were invited to file their observations, if any, by Friday, 5 June 2015;²

NOTING the observations filed by NUON Chea and KHIEU Samphân (collectively, “Defence”),³ in which they request that the Supreme Court Chamber: (i) allocate additional time for their respective examination of the called witnesses;⁴ (ii) consider the allocated time as “net”, that is, exclusive of time consumed by interruptions; and, (iii) discontinue the practice of allowing the witnesses to review their prior statements in advance of their appearance before the Chamber;⁵

NOTING the Civil Party Lead Co-Lawyers’ request that some individual Civil Parties be allowed to attend the Scheduled Hearing;⁶

CONSIDERING that, while NUON Chea and KHIEU Samphân’s requests for extension of time to examine SCW-5 are justified in light of the anticipated scope of SCW-5’s testimony,

¹ Order Scheduling a Hearing, 2 June 2015, F24 (corrected version filed on 3 June 2015) (“Scheduling Order”).

² Scheduling Order, p. 3 (third operative paragraph).

³ NUON Chea’s Observations on the Hearing Schedule for the Examination of Witnesses SCW-3, SCW-4 and SCW-5, 4 June 2015, F24/8 (“NUON Chea Observations”); Observations de la Défense de M. KHIEU Samphân sur le calendrier des audiences consacrées à la deposition de SCW-3, SCW-4 et SCW-5, 5 June 2015, F24/9 (“KHIEU Samphân Observations”).

⁴ NUON Chea Observations, para. 3 (requesting the Supreme Court Chamber to allot one additional hour for his examination of SCW-5); KHIEU Samphân Observations, para. 3 (requesting the Supreme Court Chamber to allot 15 additional minutes for his examination of SCW-3, 15 additional minutes for his examination of SCW-4, and 30 additional minutes for his examination of SCW-5).

⁵ NUON Chea Observations, paras 2-4; KHIEU Samphân Observations, paras 2-5.

⁶ Electronic mail sent from Civil Party Lead Co-Lawyer to Greffier of the Supreme Court Chamber, entitled “Conduct of Court Proceedings”, on 5 June 2015 at 03:50PM, on file with the Supreme Court Chamber.

KHIEU Samphân's request for extension of time to examine the other two witnesses are not supported by any compelling grounds;

CONSIDERING that the Civil Parties' participatory rights must be subject to the effective management of proceedings, the rights of the Accused⁷ and any protective measures for witnesses; and that, therefore, the Civil Parties' attendance at the Scheduled Hearing is subject to the availability of courtroom seating, and might be denied in case protective measures are ordered with respect to any of the called witnesses;

CONSIDERING that, in order to facilitate an effective management of proceedings, and to address the Defence's concerns regarding the possible impairment of their allocated time caused by eventual objections and other interruptions,⁸ it is appropriate to established a set of directions on the conduct of the hearing;

CONSIDERING that SCW-3, SCW-4 and SCW-5 are witnesses of the court and that, therefore, the conduct of questioning is the same for all the parties;

EMPHASISING that the directions hereby adopted by the Supreme Court Chamber have no bearing on any of the grounds of appeal raised by the Defence;

HEREBY:

DECIDES to allocate one additional hour to NUON Chea, and 30 additional minutes to KHIEU Samphân for the questioning of SCW-5;

ATTACHES the revised timetable for the Scheduled Hearing as Annex to the present Directions;⁹

⁷ Decision on Civil Party Lead Co-Lawyers' Requests Relating to the Appeals in Case 002/01, 26 December 2014, F10/2, paras 15, 17.

⁸ NUON Chea Observations, para. 2; KHIEU Samphân Observations, para. 4.

⁹ Annex – Revised Timetable for the Hearing, 17 June 2015, F26.1.

REQUESTS the Civil Party Lead Co-Lawyers to inform the Greffiers of the Supreme Court Chamber via e-mail no later than Friday, 26 June 2015 whether and, if so, which individual Civil Parties wish to sit in the main courtroom during the Scheduled Hearing;

INSTRUCTS the Witness and Expert Support Unit not to provide the witnesses, prior to their testimony in court, with copies of their previous statements;

ADOPTS the following directions, to be followed by the parties during the Scheduled Hearing:

1. *Questioning of the witnesses by the parties:*

- a. The parties may not ask leading questions in contentious subject areas, unless so authorised by the Chamber.
- b. The parties' questions must relate to NUON Chea's and KHIEU Samphân's criminal responsibility, including reliability and credibility of evidence.
- c. The parties are expected to make an efficient use of the allocated time and, in this respect, avoid irrelevant or repetitive lines of questioning. The Supreme Court Chamber will consider this factor, along with the time utilised by unsustainable objections and other interruptions, in deciding on eventual requests for additional time, which the parties may advance when the allotted time has run out.

2. *Use of witnesses' prior statements:*

Unless otherwise directed by the Chamber, the questioning of witnesses shall not be conducted by merely reading out passages of their prior statements to them and then seeking confirmation thereof. However, prior statements may be used, *inter alia*, to test witnesses' credibility or clarify discrepancies between different statements.

3. *Notification of material:*

- a. Each party shall submit, no later than Wednesday, 24 June 2015 and via e-mail addressed to the Greffiers of the Supreme Court Chamber as well as to all other parties in Case 002/01, a list of the materials the party intends to use during the witnesses' questioning. The list of documents is to be compiled as an Excel spreadsheet, and should at minimum include each document's number and title. If a document cannot be retrieved through the Zylab database, parties are requested

to attach a scanned copy of such document to the aforementioned e-mail. If the document is longer than 30 pages, parties are requested to select only the portion thereof they expect to use during questioning, and provide the respective ERN numbers, if available. Documents that are not made available in Khmer and in English or French will not be accepted. Barring exceptional circumstances, the Supreme Court Chamber will not allow the use of any document during the questioning of witnesses that was not included in the list of documents.

- b. Any objections to any of the documents intended to be used during questioning must be submitted no later than Friday, 26 June 2015, using the usual e-filing procedure. Barring exceptional circumstances, the Supreme Court Chamber will not entertain any objections to documents that are used during the questioning of witnesses that are raised at a later stage, including during the Scheduled Hearing.

Phnom Penh, 17 June 2015

President of the Supreme Court Chamber



KONG Srim