



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

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de recep on): 18 / 01 / 2016
ម៉ោង (Time/Heure) : 15:50
មន្ត្រីទទួលបន្ទុកដំណុំរឿង / Case File Officer/L'agent chargé du dossier: SANN RADA

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

27 January 2016 – Day 364

Prepared by:
Ms. Sivhoang CHEA and Mr. Roger PHILLIPS

Attendance Record
Before: Judge NIL Nonn (President); Judge Claudia FENZ; Judge YA Sokhan; Judge Jean-Marc Lavergne; Judge YOU Ottara Judge.
Reserve Judges: Judge THOU Mony (Reserve); Judge Martin KAROPKIN (Reserve).
Greffiers: Ms. Sivhoang CHEA; Mr Niccolo PONS; Mr. Roger PHILLIPS.
OCP: Mr. Song Chorvoin; Mr. Vincent DE WILDE D'ESTMAEL; Mr. SREA Rattanak.
Accused: Mr. NUON Chea (from the holding cell) and Mr. KHIEU Samphan.
Defence for the Accused Nuon Chea: Mr. Victor KOPPE; Mr. SON Arun.
Defence for the Accused Khieu Samphan: Ms. Anta GUISSSE; Mr. Kong Sam Onn.
Appointed Standby Counsel for KHIEU Samphan: Ms. TOUCH Voleak; Mr. Calvin SAUNDERS.
Civil Parties: Mr. Pich Ang Lead Co-Lawyer; Ms. Marie GUIRAUD Lead Co-lawyer; Ms. Ven Pov Civil Party; Mr. Lor Chunthy; Mrs. Ty Srinna.
Witness: Witness, Mr. PRUM Sarat (2-TCW-1009) with Duty Counsel, Mr. MOEURN Sovann; Witness Ms. IN Yoeung (2-TCW-849).
Others: Mr. UCH Arun (Court Officer); Ms. SOUR Sotheavy (Associate Court Officer); Mr. LOHN Nget; Mr. Loeung Sopheak; Mr. LAY Nara; Ms. SAM Makara (Transcribers).

<u>General court times</u>		
Day	Start time: 9.03am	Finish time: 4.05pm
Recess am	Start time: 10.14am	Finish time: 10.31am
Lunch	Start time: 11.35am	Finish time: 1.32pm
Recess pm	Start time: 2.39 pm	Finish time: 3.01pm
	Total Court Time:	4 hours and 27 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Opening of hearing and report on attendance of the Parties	Trial Chamber, Greffier	9.03am	9.05am
NOUN Chea Defence Request to follow proceedings from his cell	NUON Chea Defence	9.05am	9.06am
TC instruction to Interpreters during the examination of Witness PRUM Sarat (2-TCW-1009)	Trial Chamber, President	9.06am	9.07am
Continuation of Hearing of Witness PRUM Sarat (2-TCW-1009)	Co-Prosecution	9.07am 9.49am 10.31am	9.40am 10.14am 11.07am
	Trial Chamber, Judge Lavergne	11.08am 1.35pm	11.34am 2.40pm
	KHIEU Samphan Defence	3.02pm	3.41pm
Objection regarding confessions/torture-tainted evidence	KHIEU Samphan Defence Trial Chamber, President	9.40am	9.49am
TC Informed Witness PRUM Sarat (2-TCW-1009) that Duty counsel would be unavailable for the afternoon session.	Trial Chamber, President	1.33pm	1.35pm
Hearing of Witness IN Yoeung (2-TCW-849)	Trial Chamber, President	3.44pm	3.54pm
	Co-Prosecution	3.54pm	4.05pm

Summary of Proceedings

Opening of hearing and report on attendance of the Parties

The President opened the proceedings and the Greffier informed the Trial Chamber that all Parties were present, with the Accused NUON Chea present in the holding cell.

NUON Chea Defence request to follow the proceedings from the holding cell

The Trial Chamber granted the request of the NUON Chea Defence Team for NUON

Chea to waive his right to be present in the courtroom and to follow the proceedings from the holding cell.

TC instruction to Interpreters during the examination of Witness PRUM Sarat (2-TCW-1009)

The Trial Chamber instructed the interpreters that, when parties use the term "Yuon", the interpreters should use the same term and that if the parties refer to Vietnamese, the interpreters should also refer to Vietnamese.

Continuation of Hearing of Witness PRUM Sarat (2-TCW-1009)

The Co-Prosecution; Trial Chamber, Judge Lavernge; KHIEU Samphan Defence questioned witness TC instruction to Interpreters during the examination of Witness PRUM Sarat (2-TCW-1009).

Objection regarding confessions/torture tainted evidence overruled

The Co-Prosecution proposed to read out the content of a document taken from a Radio Phnom Penh broadcast entitled the "Confessions of a Vietnamese sailor who was captured". The KHIEU Samphan Defence objected to the use of the content of the broadcast on the grounds that it would be unlawful to read out a confession. The Co-Prosecutor responded that they did not intend to use the content of the document to assert its truthfulness. In reply, the KHIEU Samphan Defence submitted that, in accordance with the decision of the Supreme Court [F26/11], parties are not allowed to use the content of confessions taken from people who have been arrested, regardless of the reason for using the content. Furthermore, the content of anything that is torture-tainted or possibly torture-tainted in the case of confessions is strictly forbidden. The Trial Chamber upheld the objection, finding that the questions were not allowed to be put to the witness since they related to the content of the confessions.

TC Informed Witness PRUM Sarat (2-TCW-1009) that Duty counsel would be unavailable for the afternoon session

Witness PRUM Sarat (2-TCW-1009) stated that he was willing to testify without the assistance of duty counsel during the afternoon session.

Hearing of Witness Ms. IN Yoeung (2-TCW-849)

The Trial Chamber, President and the Co-Prosecution questioned Witness Ms. IN Yoeung (2-TCW-849).

Reclassified

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/9113	E305/13.23.400	00926341- 00926437 00974154- 00974260	Statement of PRUM Sarat (DC-Cam)	P	00926384, 00926385 00926425 00926431- 00926432	00974206, 00974207 00974249 00974253- 00974254	/
E3/997	D108/28.215	00020982- 00020982	Confidential Telephone Message on 20/03/78: to	P	00020982	00233649	00623220

		00233649- 00233649 00623220- 00623220	respect Brother 89 about situation on the sea				
E3/227	13.3	00019127- 00019135 00183409- 00183415 00290861- 00290869	[Corrected] The Permanent's Meeting of committee on 2- 11-75 at 7 o'clock at night	P	00019135	00183414	00290869
E3/1143	D366/7.1.338	00008510- 00008534 00535793- 00535818 00504099- 00535818	DK Military Meeting Minutes entitled "First General Staff Study Session."	P	/	/	/
E3/1249	D29914	00224832- 00224836, 00008892- 00008899 00292680- 00292690	Swedish Collection Document 1978	P	/	00008894	00292685

Other documents (No Change)

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/847	18.22	00008459- 00008470 00195322- 00195338 00623199- 00623216	DK Military Report entitled "Second General Staff Study Session."	P	00008465,00008466	00195330, 00195332	00623208, 00623211
E3/9697	D54/87	00985309- 00985343 01055460- 01055491 00998466- 00998488	Written Record of Interview of PRUM Sarat	C	00985314- 00985315, 00985323- 00985324 00985332 00985333- 00985334	01055465 01055473 01055481 01055482	00998469- 00998470 00998475- 00998476 00998481- 00998482
E3/9674	D54/23	00955478- 00955490 00977526- 00977537 00976195- 00976206	Written Record of Interview of PAK Sok ហ៊ុំ សុខ Dated 18-10- 2013	C	00955478- 00955479, 00955486, 00955487	00977526- 00977527, 00977534, 00977535,	00976195- 00976196, 00976203, 00976204

E188	/	00573327- 00573773 00572517- 00572797 00572190- 00572516	[Corrected 1] {Redacted} Judgment in Case 001	P	/	/	/
E3/9698	D114/19	01034016- 01034028 01040432- 01040444	Written Record of Interview of Mak Chhoeun dated 22-10- 2014	C	01034022- 01034024	01040438- 01040440	/
E3/13	/	00052402- 00052416 00940336- 00940358 00334972- 00334984	Note of Secretary meeting, vice secretary, and regiment, about situation to defense the country and the measure to defense the country	P	00052403- 00052414 00052407-00052408	00940337 00940355 00940345- 00940346	00334972- 00334983 00334977- 00334978
E3/9699	D54/98	00990382- 00990405 01076839- 01076868 01118077- 01118097	Written Record of Interview of HEANG Ret	C	00990394	01076854	01118087

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 proceedings (09:05am).
- Order instructing the security personnel to bring the Accused back to the detention facility and to have them return in the courtroom for hearing on 28 January 2016 before 9.am.

Order for Adjournment of Hearing

The hearing will resume on 28 January 2016 at 9.am.

Phnom Penh, 27 January 2016

Greffier

Ms. Sivhoang CHEA



Greffier

Mr. Roger PHILLIPS