



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 reception): 28 / 03 / 2016
ម៉ោង (Time/Heure): 13 : 05
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: SANN RANA

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

18 January 2016

Substantive Hearing on evidence - Day 358

Prepared by:

Ms. Sivhoang CHEA and Mr. Roger PHILLIPS

Attendance Record
Before: Judge NIL Nonn (President), Judge Claudia FENZ, Judge YOU Ottara, Judge YA Sokhan, Judge Martin KAROPKIN.
Reserve Judges: Judge THOU Mony.
Greffiers: Mr. Roger PHILLIPS, Ms. Sivhoang CHEA.
OCP: Ms. SONG Chorvoin, Mr. Travis FARR, Mr. Dale LYSAK, Mr. SENG Leang.
Accused: Mr. NUON Chea (from the holding cell); Mr. KHIEU Samphan.
Defence for the Accused Nuon Chea: Mr. SON Arun, Mr. Victor KOPPE, Mr. LIV Sovanna.
Defence for the Accused Khieu Samphan: Mr. KONG Sam Onn; Ms. Anta GUISSÉ
Appointed Standby Counsel for KHIEU Samphan: Ms. TOUCH Voleak; Mr. Calvin SAUNDERS.
Civil Parties: Mr. PICH Ang; Ms. Marie GUIRAUD; Mr. VEN Pov
Witness: Witness 2-TCW-894 with duty counsels: Mr. Moeurn Sovann; Mr. Mam Rithea; Witness 2-TCW-938 with duty counsel: Mr. Mam Rithea.
Others: Mr. UCH Arun (Court Officer), Ms. SOUR Sotheavy (Associate Court Officer); Mr. Lonh Nget (Transcriber); Mr. Meach Sovanna (Transcriber); Mr. Loeung Sopheak (Transcriber); Ms. Srey Nak (Transcriber) ; Ms. Elena FAVARO VIANA (Legal Intern); Mr. KEO Vath.

<u>General court times</u>		
Day	Start time: 9:05	Finish time: 16:10
Recess am	Start time: 10:16	Finish time: 10:32
Recess	Start time: 11:35	Finish time: 13:35
Recess pm	Start time: 14:57	Finish time: 15:15
	Total Court Time:	4 hours and 28 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	9:05	9:07
NUON Chea Defence Requests to follow the proceedings from the holding cell	NUON Chea Defence	9:07	9:10
Hearing of Witness 2-TCW-894	Civil Party Lead Co-Lawyer	9:11	9:22
	NUON Chea Defence	9:22	10:53
	Trial Chamber, Judge Fenz	10:54	10:58
	NUON Chea Defence	10:58	10:59
	The Trial Chamber, President	11:00	11:03
	Khieu Samphan Defence	11:03	14:02
Oral Submissions by NUON Chea Defence to remove witness 2-TCW-989, from the witness list for the proceedings in Case 002/02	Trial Chamber	14:02	14:03
	Co-Prosecutor	14:03	14:06
	Civil Party Lead Co Lawyers	14:06	14:10
	Khieu Samphan Defence	14:11	14:12
	NUON Chea Defence	14:12	14:14
	Co-Prosecutor	14:15	14:19
	Co-Prosecutor	14:20	14:20
	NUON Chea Defence	14:20	14:20
Hearing of Witness 2-TCW-938	Trial Chamber	14:21	14:22
	Co-Prosecutor	14:22	14:36
Clarification on the newly disclosed documents E319/39.3.5 by the Co-Prosecutors to the Defence Teams	Co-Prosecutor	14:36	16:05
	Co-Prosecutor	15:16	15:22
	NUON Chea Defence	15:22	15:25
	Co-Prosecutor	15:25	15:25
	Civil Party Lead Co-Lawyer	15:25	15:25
	NUON Chea Defence	15:25	15:25
	KHIEU Samphan Defence	15:25	15:25
	Co-Prosecutor	15:26	15:28
	Co-Prosecutor	15:28	15:30

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.

Hearing of Witness 2-TCW-894

The Civil Party Lead Co-Lawyers, The NUON Chea Defence, The Trial Chamber, and The Khieu Samphan Defence questioned the witness 2-TCW-894 in closed session.

Oral Submissions on the request by the NUON Chea Defence to remove witness 2-TCW-989, from the witness list for the proceedings in Case 002/02

On 15 January 2016, the NUON Chea Defence submitted a request to remove witness 2-TCW-989 from the list of approved witnesses by the Trial Chamber to testify in case 002/02 (E346/2/1). The Co-Prosecutors, Civil Parties and KHIEU Samphan Defence give oral submissions to this request. The Trial Chamber will issue a ruling in due course.

Hearing of Witness 2-TCW-938

The Trial Chamber and the Co-Prosecutors questioned the witness [REDACTED] 2-TCW-938 in closed session.

Clarification on the newly disclosed documents E319/39.3.5 by the Co-Prosecutors to the Defence Teams

The Trial Chamber sought clarification from the Co-Prosecutors on the use of the newly disclosed investigative report (E319/39.3.5) to the Defence teams on 8 January 2016. The Co-Prosecutors stated they were not planning on using the documents, therefore did not file an 87.4 request, but that some of the information contained in them may be exculpatory. The KHIEU Samphan Defence team filed an 87.4 request to use one of the documents, to which the Co-Prosecutors had no objection. The Co-Prosecutor and Civil Party lead Co-Lawyers had no objection to admitting the Investigative report. The NUON Chea Defence had no objection, but requested access to all 13 Written Records of Interviews mentioned in the report, and the KHIEU Samphan Defence objected to the use of the report since they were unable to review the relevant WRIs within which the investigators used questionable methods. The Trial Chamber allowed the use of the investigative report in the proceedings but ordered the Deputy Co-Prosecutor to ask very open questions.

New E3s

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/9735	D219/492	01138982- 01138989	Written Record of Investigation Action	P	/	/	/

Reclassified

TC No	OC IJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/9677		01136628- 01136635; 01151266- 01151273	Written Record of Interview witness PRAK Yut dated 21-08-2015	P	01136630	01151268	/
E3/9500		00964450- 00964458; 00966985- 00966993; 00965589- 00965596	Written Record of Interview of 2- TCW-894	P	00964457	00966992	00965595
E3/9507		01056037- 01056066; 01059269- 01059302; 01123901- 01123925	Written Record of Interview Witness 2-TCW-894	P	01056050 ; 01056058 ; 01056056 ; 01056042 - 01056043	01059284- 01059285; 01059293; 01059291; 01059275- 01059276	01123912 ; 01123918 ; 01123917 ; 01123905 - 01123906
E3/9499		01046827- 01046845; 01063603- 01063626; 01106528- 01106545	Written Record of Interview of 2- TCW-938Dated 30-09-2014	P	01046832 ; 01046831 - 01046832 ; 01046843	01063610; 01063608- 01063609; 01063623	01106533 ; 01106532 ; 01106542
E3/9496		01046800- 01046811; 01056221- 01056232; 01103656- 01103667	Written Record of Interview of 2- TCW-938Dated 19-06-2013	P	01046809 ; 01046804 - 01046805 ; 01046834	01056229; 01056225; 01063611- 01063612	01103664 ; 01103661 ; 01106534
E3/9462		00893169- 00893173; 00903201- 00903206; 00974979- 00974984	Written Record of Witness Interview of PECH Chim	P	00893170 - 00893171	00903203	00974980 - 00974981
E3/9522		01046790- 01046798; 01056213- 01056220; 01120108- 01120115	Written Record of Interview of 2- TCW-938Dated 28-05-2013	P	01046798 ; 01046794	01056219; 01056217	01120115 ; 01120112

Other documents (No Change)

TC No	OC IJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E1/34.1		00773515- 00773606; 00774497- 00774610; 00774611- 00774730	Transcript of hearing on the substance in Case 002- 26 January 2012	P	N/A	00774583	00774701
E3/163	D23 4/4	00357505- 00357516; 00364077- 00364086; 00403121- 00403129	[Corrected 1] Written Record of Interview of 2-TCW-938 dated 21 July 2009	P	00357510	00364081	00403125
E1/33.1		00773432- 00773514; 00774031- 00774129; 00774130- 00774227	Transcript of hearing on the substance in Case 002- 25 January 2012	P	00773490 00773491	00774103 00774105	00774202 00774204
E3/2653		00904196- 00904430; 00219050- 00219245; 00943973- 00943985	YSA Osman, "The Cham Rebellion: Survivor's Stories from the Village", DC-Cam, 2006.	P	00904407	00219210	/

Oral Orders/Decisions:

- Order authorising 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 (9:10).
- Order permitting the use of E319/39.3.5 (15:30).
- Order to take the Accused to the Detention Facility and bring him back to court for the Hearing on 18 January 2016 (14:09).

Order for Adjournment of Hearing

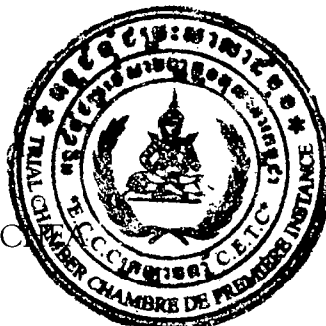
The hearing will resume on Tuesday, 19th January 2016 at 9:00am.

Phnom Penh, 18 January 2016

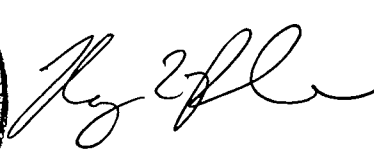
Greffier



Ms. Sivhoang Chh



Greffier



Mr. Roger PHILLIPS