



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/ORIGINAL**  
ថ្ងៃ ខែ ឆ្នាំ (Date): 20-Jan-2016, 15:39  
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

14 January 2016

Trial Day 357

Before the Judges: NIL Nonn, Presiding  
Claudia FENZ  
Jean-Marc LAVERGNE  
YA Sokhan  
YOU Ottara  
Martin KAROPKIN (Reserve)  
THOU Mony (Reserve)

The Accused: NUON Chea  
KHIEU Samphan

Lawyers for the Accused:  
Victor KOPPE  
LIV Sovanna  
SON Arun  
Anta GUISSSE  
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:  
CHEA Sivhoang  
EM Hoy  
Matthew MCCARTHY

Lawyers for the Civil Parties:  
Marie GUIRAUD  
LOR Chunthy  
PICH Ang

For the Office of the Co-Prosecutors:  
Travis FARR  
Dale LYSAK  
SONG Chorvoïn

For Court Management Section:  
UCH Arun

**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
The President (NIL Nonn)	Khmer

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1 P R O C E E D I N G S

2 (Court opens at 0915H)

3 MR. PRESIDENT:

4 Please be seated. The Court is now in session.

5 Per our schedule, today the Chamber will hear testimony of a  
6 witness, namely, 2-TCW-894, in camera.

7 Ms. Chea Sivhoang, please report the attendance of the Parties  
8 and other individuals to today's proceedings.

9 [09.16.40]

10 THE GREFFIER:

11 Mr. President, for today's proceedings, all Parties to this Case  
12 are present.

13 Mr. Nuon Chea is present in the holding cell downstairs. He has  
14 waived his rights to be present in the courtroom. The waiver has  
15 been delivered to the greffier.

16 The witness who is to testify today -- that is, 2-TCW-894, has  
17 taken an oath -- rather, took an oath yesterday before the Iron  
18 Club Statue. The witness has Mr. Moeurn Sovann as her duty  
19 counsel, and they are both ready to be called by the Chamber.

20 09.17.27]

21 MR. PRESIDENT:

22 Thank you. The Chamber now decides on the request by Nuon Chea.

23 The Chamber has received a waiver from Nuon Chea, dated 14

24 January 2016, which states that, due to his health, headache,

25 back pain, he cannot sit or concentrate for long. And in order to

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1 effectively participate in future hearings, he requests to waive  
2 his rights to be present at the 14 January 2016 hearing.  
3 Having seen the medical report of Nuon Chea by the duty doctor  
4 for the Accused at ECCC, dated 14 January 2016, which notes that  
5 Nuon Chea today has chronic back pain when he sits for long and  
6 recommends that the Chamber grant him his request so that he can  
7 follow the proceedings remotely from the holding cell downstairs.  
8 Based on the above information and pursuant to Rule 81.5 of the  
9 ECCC Internal Rules, the Chamber grants Nuon Chea his request to  
10 follow today's proceedings remotely from the holding cell  
11 downstairs via audio-visual means.  
12 The Chamber instructs the AV Unit personnel to link the  
13 proceedings to the room downstairs so that Nuon Chea can follow.  
14 This applies to the whole day.  
15 [09.18.56]  
16 And before we commence hearing testimony of Witness 2-TCW-894,  
17 the Chamber would like to inform the Parties the following.  
18 The Trial Chamber has received additional submissions concerning  
19 the in camera hearings of two witnesses from the Co-Prosecutors,  
20 as well as the last communication from the International  
21 Co-Investigating Judge.  
22 The Trial Chamber and Parties received a courtesy copy of the OCP  
23 request calling for reasons provided by the International  
24 Co-Investigating Judge to hear testimonies of 2-TCW-894 and 938  
25 in closed session. The OCP further asked the Trial Chamber to

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1 allow Parties to make their oral submission in this regard.  
2 Thus, the Trial Chamber decides to send the memorandum of  
3 understanding from the ICIJ to the concerned Parties, and Parties  
4 will be granted opportunity to make their oral submissions.  
5 Parties will receive this memo in the next 10 minutes.  
6 For that reason, the Trial Chamber will adjourn until 10 o'clock  
7 this morning in order to allow the Parties to prepare and make  
8 their oral submissions.

9 [09.20.58]

10 In addition, the Trial Chamber will also hear oral responses to  
11 the request by Khieu Samphan in reference to document E372/1  
12 after we hear the oral submissions concerning the in camera  
13 hearings of the two witnesses and, for that reason, we will  
14 adjourn now and return at 10 o'clock so that Parties will have  
15 sufficient opportunity to prepare their oral submissions.  
16 And security personnel, you may take Khieu Samphan to the waiting  
17 room downstairs and have him returned before 10 -- about 15 past  
18 10.00.

19 The Court is now in recess.

20 (Court recesses from 0921H to 1020H)

21 MR. PRESIDENT:

22 Please be seated.

23 The Court is now back in session, and at the beginning of our  
24 proceedings this morning, the Chamber informed the Parties that  
25 the Chamber will hear oral submissions by Parties concerning the

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1 memorandum of understanding issued by ICIJ on the proceedings to  
2 hear testimonies of two witnesses -- that is, 2-TCW-894 and 938  
3 in closed sessions.

4 And the memorandum by the ICIJ has been delivered to the Parties.  
5 Due to the confidential nature of the memorandum, the Chamber  
6 decides to hear oral submissions from Parties also in camera, and  
7 for that reason, the AV Unit is instructed to disconnect the  
8 video and audio from the Court to the public gallery as well as  
9 to the press room or to various other offices of the ECCC  
10 compound.

11 First, I'd like to give the floor to the Co-Prosecutors to  
12 present their submission in this regard. You may proceed.

13 (Suspension of public session: 1023H)

14 (Closed session from 1023H to 1121H)

15 (Resumption of public session: 1121H)

16 MR. PRESIDENT:

17 Let me proceed.

18 Yesterday, the Khieu Samphan defence submitted a request to  
19 accept a document, E319/39.3.1 as a -- as an evidence so that it  
20 can be used to question Witness 2-TCW-938. And we would like to  
21 get response from the various parties concerning this request.

22 First we would like to give the floor to the Co-Prosecutors to  
23 respond to the request by Khieu Samphan for the admission of this  
24 document in order to question this upcoming witness.

25 MR. LYSAK:

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1 Thank you, Mr. President. I can be very brief.

2 The Prosecution has no objection to the admission and use of this  
3 document.

4 [11.22.15]

5 MR. PRESIDENT:

6 Thank you.

7 And I'd like now to give the floor to the Lead Co-Lawyers for  
8 civil parties.

9 MS. GUIRAUD:

10 No objection, Mr. President.

11 MR. PRESIDENT:

12 Thank you.

13 And now the floor is given to the defence team for Nuon Chea. You  
14 may proceed.

15 MR. KOPPE:

16 No objection, Mr. President.

17 MR. PRESIDENT:

18 And lastly, I'd like to give the floor to defence team for Khieu  
19 Samphan, and maybe you don't need to have the floor because there  
20 seems to be no objection from other Parties. However, if you wish  
21 to make any further point on this, you have the floor.

22 [11.23.22]

23 MS. GUISSSE:

24 I would like to add that we made this request with (inaudible),

25 Mr. President.

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1 MR. PRESIDENT:

2 The Chamber would like to thank all Parties concerning your oral  
3 submissions on the first issue, and also on the second issue.

4 And now it is appropriate for our short -- for our lunch break.

5 We'll take a break now and resume this afternoon commencing from  
6 1.30.

7 The -- after the lunch break, the Judges of the Bench will  
8 deliberate on the current issues and we'll likely issue an oral  
9 ruling before we proceed to hearing testimonies of Witness  
10 2-TCW-894 this afternoon.

11 Security personnel, you are instructed to take Khieu Samphan to  
12 the waiting room downstairs and have him returned to attend the  
13 proceedings this afternoon before 1.30.

14 The Court is now in recess.

15 (Court recesses from 1124H to 1333H)

16 MR. PRESIDENT:

17 Please be seated. The hearing -- the Chamber is now back in  
18 session. Now, the Chamber issue the oral ruling on two issue  
19 discussed this morning.

20 Today, the Trial Chamber is scheduled to hear the testimony of  
21 2-TCW-894. Next week, the Trial Chamber is scheduled to hear the  
22 testimony of 2-TCW-938. Yesterday, the Trial Chamber ordered the  
23 entirety of the testimony of both of these witnesses would be  
24 heard in closed session.

25 [13.34.42]



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1 After this decision, following repeated requests from the  
2 Prosecution, the Trial Chamber heard oral submissions on the  
3 matter this morning. The Trial Chamber has considered the  
4 Parties' submissions. Nothing it has heard alters its decision to  
5 proceed in closed sessions for these two witnesses.

6 While the Chamber wishes to ensure that the trial of Case 002/02  
7 remains public, other factors must be considered. Full reasons  
8 for this decision will be provided in writing in due course and  
9 those reasons will, to the extent possible, be made public.

10 After the testimony of the two witnesses is completed in closed  
11 session, the Trial Chamber will, in cooperation with the  
12 International Investigating Judge, seek to release public  
13 transcripts of their testimony redacted to the extent that the  
14 International Investigating Judge requires.

15 [13.36.08]

16 Additionally, pursuant to Internal Rule 87.4, the Chamber grants  
17 the Khieu Samphan defence motion, E372/1, to admit one document,  
18 E319/39.3.1, into evidence.

19 The Trial Chamber will now move to closed session to hear  
20 2-TCW-894.

21 The Chamber instructs AV unit to disconnect video and audio feeds  
22 to the public gallery and other internal broadcast within the  
23 ECCC compound.

24 And Court Officer, please let me know after you have already  
25 disconnected, as instructed.

- 1 (Short pause)
- 2 (End of public session)
- 3 [13.38.05]
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