



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

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| ឯកសារដើម ORIGINAL DOCUMENT/DOCUMENT ORIGINAL |
| ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): 20 / 12 / 2016 |
| ពេលវេលា (Time/Heure): 11:20 |
| អង្គបម្រើឯកសារ/Case File Officer/L'agent chargé នាម: SANN RATA |

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

17 October 2016

Substantive Hearing on evidence – Day 465

Prepared by:

Mrs. SE Kolvuthy and Ms. Evelyn CAMPOS SANCHEZ

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| Attendance Record |
| Before: Judge NIL Nonn (President), Judge YA Sokhan, Judge YOU Ottara; Judge Jean-Marc LAVERGNE; Judge Claudia FENZ. |
| Reserve Judges: Judge Martin KAROPKIN (Reserve); Judge THOU Mony (Reserve) |
| Greffiers: Ms. SE Kolvuthy; Ms. Evelyn CAMPOS SANCHEZ |
| OCP: Mr. Nicholas KOUMJIAN; Ms. SONG Chorvoin; Mr. Joseph Andrew BOYLE |
| Accused: Mr. NUON Chea (from the holding cell); Mr. KHIEU Samphan. |
| Defence for the Accused Nuon Chea: Mr. Victor KOPPE; Mr. SON Arun; Mr. LIV Sovanna |
| Defence for the Accused Khieu Samphan: Ms. Anta GUISSÉ; Mr. KONG Sam Onn |
| Standby Counsel for the Accused Khieu Samphan: Ms. TOUCH Voleak; Mr. Calvin SAUNDERS |
| Civil Parties: Mr. PICH Ang; Ms. Marie GUIRAUD; Mr. VEN Pov; Mr. LOR Chunthy |
| Witness: Mr. CHEAL Choeun (2-TCW-960) ; 2-TCW-1037 (CAT A witness) with Duty Counsel Mr. MOEUN Sovann |
| Others: Mr. UCH Arun (Court Officer), Ms. SOUR Sotheavy (Associate Court Officer), Ms. SREY Nak (Transcriber); Mr. PICH Charkya; Mr. MEACH Sovanna; Mr. NOU Monoraoth; Aureliarita MARCELLUS (Trial Chamber Intern) |

General court times

| | | |
|-----------|-------------------|------------------------|
| Day | Start time: 09:05 | Finish time: 16:12 |
| Recess am | Start time: 10:10 | Finish time: 10:32 |
| Recess | Start time: 11:24 | Finish time: 13:31 |
| Recess pm | Start time: 14:44 | Finish time: 15:05 |
| | Total Court Time: | 4 hours and 17 minutes |

| Proceedings | | | |
|--|-----------------------------|------------|-------------|
| Type of Issue | Raised By | Start time | Finish time |
| Opening of Substantial Hearing and report on attendance of the Parties | Trial Chamber, Greffier | 9:06 | 9:07 |
| NUON Chea Defence Request to follow the proceedings from the holding | NUON Chea Defence | 9:09 | 9:10 |
| Hearing of Witness CHIEL Chhoeun (2-TCW- 960) | International Co-Prosecutor | 9:11 | 10:11 |
| | NUON Chea Defence | 10:37 | 11:22 |
| Order to proceed in closed session in relation to documents pertaining to 2-TCW-1066 | Trial Chamber | 11:17 | 11:18 |
| Hearing of Witness 2-TCW-1037 | Trial Chamber | 13:37 | 13:44 |
| | NUON Chea Defence | 13:45 | 14:44 |
| | | 15:15 | 15:57 |
| | Co-Prosecutor | 15:57 | 16:10 |
| Oral ruling on NUON Chea Request to admit 8 documents and investigative action in relation to 2 documents E445/1 | Trial Chamber | 13:31 | 13:36 |
| Oral Submissions by the Co-Oral Submission on the Written Notes of 2-TCE-98 pertaining to E3/7338 | Co-Prosecutor | 15:05 | 15:10 |
| | Trial Chamber | 15:09 | 15:09 |
| | LCL for Civil Parties | 15:10 | 15:10 |
| | NUON Chea Defence | 15:11 | 15:11 |

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

Hearing of Witness CHIEL Chhoeun (2-TCW-960)

Questions were put to the Witness CHIEL Chhoeun (2-TCW-960) by the Co-Prosecutor

and concluded by NUON Chea's Defence.

Order to proceed in closed session in relation to documents pertaining to 2-TCW-1066

The Trial Chamber ordered proceedings in closed session allowing that during the examination of 2-TCW-960 Counsel for NUON Chea refers to extracts of documents E3/10685 and E3/10683 pertaining to 2-TCW-1066, which is a protected witness..

Oral ruling on NUON Chea Request to admit 8 documents and investigative action in relation to 2 documents E445/1

The Chamber refers to the request filed confidentially by the NUON Chea Defence on 11 October 2016 pursuant to Internal Rules 87(4) and 93 (E445/1), seeking the admission of 8 documents and requesting investigative action with respect to 2 documents. Oral submissions in response were heard on 13 October 2016.

Pursuant to Internal Rule 87(4), the Trial Chamber admits documents 1 to 7 and denies the admission of document 8. Given that the Chamber denies the admission of document 8, the request in response made by the Co-Prosecutor to admit three documents is moot. With respect to Document 1, the NUON Chea Defence is instructed to identify those portions of the 215-page document which are most relevant to the anticipated testimony of 2-TCE-98 and which they intend to use.

Having regard to the Rule 93 request, the Chamber has asked WESU to contact the expert to provide a full version of the first requested document. The Chamber denies the Rule 93 request with respect to the second requested document.

Full written reasons for this decision will follow in due course.

Hearing of the Witness (2-TCW-1037)

Questions were put to the Witness 2-TCW-1037 by the Trial Chamber, followed by NUON Chea Defence and concluded by the Co Prosecutors.

Oral Submission on the Written Notes of 2-TCE-98 pertaining to E3/7338

The Chamber requested the parties to respond to the Co-Prosecutor request of handwritten notes of 2-TCE-98's interview with King Norodom Sihanouk and Ieng Sary in 1983 and 1985 respectively for questioning during the experts testimony.

Newly Admitted Documents

| TC No | OCIJ No | ERN (KH, ENG, FR) | Title | Class | Note in Khmer | Note in English | Note in French |
|----------|---------|-------------------|--|-------|---------------|-----------------|----------------|
| E3/10699 | | 01335024-01335238 | Stephen J. Morris, 'The Origins of the Soviet-Vietnamese Alliance', Doctoral Dissertation, Columbia University, 1987 | P | / | / | / |
| E3/10700 | | 01335239-01335280 | Morris J., Stephen (1999). The Soviet Chinese-Vietnamese Triangle in the 1970s: The View From Moscow. | P | / | / | / |

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|----------|-----------------------|--|---|---|---|---|
| E3/10701 | 01335281- 01335284 | Attachment 3: Stephen J. Morris "The War We could Have Won," New York Times, 1 May 2005 | P | / | / | / |
| E3/10702 | 01335285- 01335286 | Attachment 4: Thomas Lippman 'A Researcher's dream Find on U.S POWs Turns into a Nightmare'/ Washington Post 25Aprl 1993, A04 | P | / | / | / |
| E3/10703 | 01335287- 01335289 | [Attachment 5] Chandler, David (2000). Book review of Stephen J. Morris's Why Vietnam Invaded Cambodia: Political culture and the Causes of War. | P | / | / | / |
| E3/10704 | 01335290- 01335291 | [Attachment 6] Stephen J. Morris "letter to the editor : Khmer Rouge crimes and Moral Absurdities," Wall Street Journal , 15 June 1995,A15 | P | / | / | / |
| E3/10705 | 01335292- 01335293 | [Attachment 7] Disowning Morris', Phnom Penh Post, 30 June 1995 | P | / | / | / |

Reclassified Documents

| TC No | OCIJ No | ERN (KH, ENG, FR) | Title | Class | Note in Khmer | Note in English | Note in French |
|---------|---------|--|--|-------|----------------------------|----------------------------|----------------------------|
| E3/3481 | | P 00440815- 00440815 P 00440815- 00440815 P 00440815- 00440815 | Photograph depicting KOY Thoun and VORN Vet | P | P 00440815- 00440815 | P 00440815- 00440815 | P 00440815- 00440815 |
| E3/1358 | | 00679851- 00679854 00168258- 00168306 00662237- 00662240 | Annex 00033: Foreign Broadcast Information Service collection of reports for August 1977 | P | / | 00168287 | / |

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|----------|--|---------------------|---|---|---|---|
| E3/10698 | P 01337595- 01337595 P 01337595- 01337595 P 01337595- 01337595 | Toat Thoeun picture | P | / | / | / |
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Other documents (No Change)

| TC No | OCIJ No | ERN (KH, ENG, FR) | Title | Class | Note in Khmer | Note in English | Note in French |
|-----------|------------|---|--|-------|----------------------|--|----------------------|
| E3/1170 | | 00443012- 00443062 00602543- 00602593 00544894- 00544942 | DC-Cam Khmer Rouge Black Journal | P | 00443016- 17 | 00602544 | 00544895 |
| E3/2285 | D108/26.86 | 00009067- 00009317 00873122- 00873671 | [Surrogate Sheet] Annex 86: List of Prisoners | P | / | / | / |
| E3/1068R | | TR01208995- TR01208995 | CD Recording of Interview of witness CHEAL Choeun | C | / | (Answer 42) 1hr 12 Min (Answer 121) 2h 12 Mon 20 Sec | / |
| E3/10681 | | 01201719- 01201759 01213331- 01213358 | Written Record of Interview witness CHEAL Choeun ជាល ជៀន | C | 01201738 01201727 | 01213345 01213337 | / |
| E3/9580 | | 00951900- 00951912 00978415- 00978429 01004430- 01004443 | Written Record of Interview of 2-TCW-1037 [REDACTED] | C | 00951901 00951902 | 00978412 00978425 00978422 | 01004440 01004437 |
| E29/489/1 | | 01331002- 01331003 01331001- 01331001 | Response of Rob Lempkin to Trial Chamber Inquiry | C | 01331002- 03 | 01331001 | / |

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|----------|-------------|--|--|---|--|---|----------|
| E3/10666 | | 01326300- 01326358 01330495- 01330584 | Transcript of interview of 2- TCW-1037 | C | 01326301 01326314 01326340 01326309 01326355 01326319 | 01330496 01330517 01330570 01330510 01330580 01330525- 26 | / |
| E3/10683 | | 01068121- 01068153 01106425- 01106448 | Written Record of Interview of 2-TCW-1066 [REDACTED] | C | / | / | / |
| E3/4202 | | 00858214- 00858410 00920122- 00920144 00757471- 00757568 00849349- 00849484 | Annex 2: Book by GINA Chon and THET Sambath entitled "Behind the killing fields: a Khmer Rouge leader and one of his victims" | P | 00858342 | 00757532 | 00849437 |
| E3/7338 | | 01001657- 01001985 | Attachment 4: Stephen J Morris Why Vietnam Invaded Cambodia Political Culture and the Causes of War | P | / | 01001662 | / |
| E3/10683 | E319/52.3.3 | 01068121- 01068153 01106425- 01106448 | [REDACTED] Written Record of Interview of 2- TCW-1066 [REDACTED] | C | / | / | / |

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 proceeding (9:08).
- Order to use excerpts extracted from document E3/10685 and E3/10683 only in closed session (10:33).
- Order to take the two accused , NUON Chea and KHIEU Samphan , back to the detention facility and have them returned to attend the proceedings, tomorrow, Tuesday 18 October 2016 before nine o'clock (16:12).

Order for Adjournment of Hearing

The hearing will resume on Tuesday 18 October 2016 at 9:00am. *SR*

Phn *SR* 2016
Greffier Greffier

SE Kolvuthy
Mrs. SE Kolvuthy *Evelyn Campos S*
Evelyn CAMPOS SANCHEZ

