



ECCC proceedings have been postponed until Wednesday, May 23, due to health issues of Ieng Sary, pictured above (front center) during the period of Democratic Kampuchea. (Source: Documentation Center of Cambodia)

Proceedings Postponed Due To Ieng Sary's Health

By Kelley Dupre Andrews, Legal Intern – Northwestern University School of Law,
Center for International Human Rights

Monday's hearings in Trial 002 of the ECC were cut short due to problems with the accused Ieng Sary's health. Proceedings began unusually late – around 9:30 a.m., trying the patience of over 200 school children sitting in the public gallery. Waiting anxiously in their crisp white uniforms, the students erupted into whispers of excitement as the curtains opened around 9:10 a.m. Their excitement began to wane when the judges had yet to enter the Chamber five minutes later. An announcement soon came over the speaker thanking the audience for their patience and reporting that the judges were currently dealing with a "small emergency issue." What that issue was, however, the announcer did not say.

Inside the Chamber, the civil party attorneys talked energetically among themselves while defense counsel sat somber on the opposite end, vacantly staring at the computer screens in front of them. Nuon Chea appeared cool and collected, occasionally glancing at the school children restlessly squirming in their seats.

President Nonn Calls Court into Session

The judges entered the Chamber shortly before 9:30 a.m. After announcing the opening of the proceedings, President Nonn reported that the next four days would be reserved for hearing the testimony of witness TCW487. A court officer announced all parties and counsel to be present except the accused Ieng Sary, who is hospitalized and still undergoing treatment.

Before turning to Ieng Sary's defense counsel for an update, President Nonn granted lead civil party co-lawyer Pich Ang's request for ECCC recognition of a new French civil party lawyer. After taking a few moments to swear in the new member, President quickly returned to the issue of Ieng Sary's health.

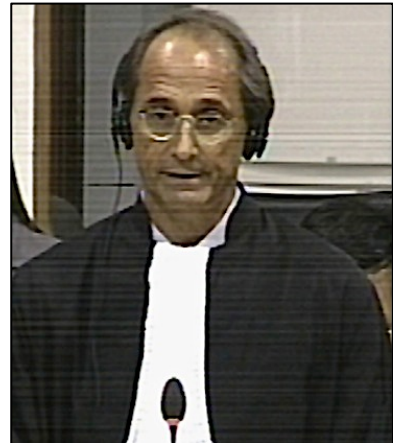
Ieng Sary Diagnosed with "Respiratory Conditions"

Ieng Sary's doctors' report was subsequently read before the Court, informing all present that Ieng Sary, who was sent to the hospital on May 20, 2012, due to difficulty breathing, had been diagnosed with "respiratory conditions." Because he has continued to improve with treatment, the report stated Ieng Sary would be released from the hospital on Tuesday, May 22, 2012. His doctors advised two days of rest after his release.

"International Standards" Mandate Postponement

After the reading of the report, President Nonn turned to Ieng Sary's defense counsel for commentary. Michael Karnavas, co-lawyer for Ieng Sary, informed the Court that his client did not waive his right to be present during proceedings. He emphasized that "international standards" required proceedings be postponed until Ieng Sary's health improves or until he issues a waiver relinquishing his right to be present at trial.

No parties opposed Mr. Karnavas's request to postpone proceedings until his client's health improves. Co-lawyer for Nuon Chea, Son Arun, fully supported Mr. Karnavas's call to stop proceedings particularly because Ieng Sary is "closely related to the testimony to be heard by the witness today." International Co-Prosecutor Vincent de Wilde did state that the hearings should continue "whenever possible," even if Ieng Sary had to participate "remotely."



After the judges deliberated for a few moments, Judge Cartwright was given the floor to seek clarification of two issues. In response to whether Ieng Sary's medical records could be released to the public, Mr. Karnavas replied that he would have to consult his client but doubted Ieng Sary would object. Judge Cartwright also asked Mr. Karnavas whether he has been given sufficient access to Ieng Sary while his client is undergoing treatment. Mr. Karnavas responded that access to hospitalized clients had previously been prohibited. The judges told Mr. Karnavas that, given doctors' approval, the Chamber would attempt to allow counsel access to consult with Ieng Sary.

Proceedings Postponed Until Wednesday, May 23, 2012

President Nonn wrapped up the day's shortened proceedings, announcing that, in consideration of Ieng Sary's medical report and pursuant to Internal Rule 81 of the ECCC, hearings will be postponed until Wednesday, May 23, 2012. At that time, the President elaborated, the Court will hear recommendations from Ieng Sary's doctors about how he should participate in further proceedings – whether in person or remotely.