



Dr. Kim Somsan updates the court on Ieng Sary's health at the ECCC on Monday.

Health Issues Delay Witness Testimony

By Mary Kozlovski

On Monday, August 13, 2012, trial proceedings in Case 002 involving accused Nuon Chea, Ieng Sary, and Khieu Samphan, resumed at the Extraordinary Chambers in the Courts of Cambodia (ECCC).

Two intellectuals who returned to Cambodia from abroad during the Khmer Rouge period are set to resume testifying this week. Witness Suong Sikoeun, whose testimony was halted last Wednesday due to his poor health, was scheduled for questioning by the defense. Witness Ong Thong Hoeung, who lives in Brussels, was also prepared to testify.

However, the Trial Chamber suspended the morning session due to concerns over Ieng Sary's health and his right to participate during the testimonies of Suong Sikoeun and Ong Thong Hoeung. After an additional medical examination of Ieng Sary, the Trial Chamber adjourned the hearing for the remainder of the day.

Morning Session Adjourned due to Ieng Sary Health Concerns

After a late start and discussions on the bench, Trial Chamber Judge Silvia Cartwright asked counsel for Ieng Sary if they were aware the doctor had reported their client was dizzy and unable to concentrate and had they had filed a waiver of his right to be present in court and to instead participate remotely from a holding cell.

International Co-Lawyer for Ieng Sary Michael Karnavas told the judges that the waiver was filed before counsel met with Ieng Sary, when he appeared to be "rather okay." Mr Karnavas said they then requested an additional examination after Ieng Sary indicated that he was too dizzy and exhausted to follow proceedings. Despite the "new information," he stated, Ieng Sary still wished to participate from the holding cell given the two "critical witnesses" under questioning. "We do consult with him and he does give us instructions," Mr Karnavas said.

Trial Chamber President Nil Nonn questioned Dr. Kim Somsan – who monitors the health of the accused at the ECCC and has worked at the Khmer-Soviet Friendship Hospital in Phnom Penh since 1991 — about his assessment and advice regarding Ieng Sary's health. Dr. Somsan said that Ieng Sary was "stable" during an initial examination at 8:15 a.m. but was visiting the bathroom more frequently than yesterday, and at that stage he had recommended that Ieng Sary monitor proceedings from the holding cell.

Dr. Somsan observed during a second examination at 9:10 a.m. that Ieng Sary's repeated trips to the bathroom were causing dizziness and fatigue. Ieng Sary indicated to the doctor that he felt "different from normal," his memory was declining, and he felt that he could not attend proceedings. Dr Somsan said he was not able to properly assess Ieng Sary's memory.

Trial Chamber Judge Jean-Marc Lavergne asked Dr. Somsan whether, clinically, there were any changes observed between the two examinations or signs that supported Ieng Sary's remarks, noting that there was no reported difference in blood pressure.

Dr. Somsan reiterated that Ieng Sary's trips to the bathroom were more frequent and tired him and that Ieng Sary had indicated that he was dizzy, fatigued, and confused and that his memory was too poor to observe the proceedings. Judge Lavergne repeated his previous inquiry and sought Dr. Somsan's conclusions on Ieng Sary's ability to follow proceedings. Dr. Somsan confirmed that Ieng Sary was dizzy, that he had to hold his bed for balance when walking to the bathroom, and that upon returning his breath was shorter.

When asked whether Ieng Sary needed to rest, Dr. Somsan said that the accused could recline and follow proceedings from the holding cell, though it was difficult to ascertain whether he could understand or remain focused enough. He noted that Ieng Sary would like to observe proceedings to "his best capacity."

After further discussion among the judges, President Nonn adjourned the hearing due to concerns about Ieng Sary's health, noting the accused's right to participate during the testimony of two witnesses relating to the role of the Ministry of Foreign Affairs.

National Co-Lawyer for Nuon Chea Son Arun observed that though proceedings may be observed from a holding cell, an accused person should be permitted to rest if they cannot concentrate or focus, and in such circumstances there should be no hearing.

President Nonn said the hearing would resume at 1:30 p.m. for questioning of witness Suong Sikoeun by defense counsel for Khieu Samphan.

Trial Chamber Adjourns Hearing for Remainder of the Day

Following a lengthy recess, President Nonn said that Dr. Somsan examined Ieng Sary at 1:10 p.m. and observed no change in his condition. According to the doctor, Ieng Sary continued to feel dizzy and fatigued, had to use the bathroom frequently, could not eat or sleep, and "his mind is poor." President Nonn said Dr. Somsan recommended that Ieng Sary not attend any proceedings.

Consequently, President Nonn announced that hearings would be adjourned for the day, and the following day the court intended first to hear the testimony of Ong Thong Hoeung — "if the proceeding[s] can go ahead" — who must return to Europe as soon as possible. Suong Sikoeun will then resume his testimony.

Trial proceedings are scheduled to resume on Tuesday, August 14, at 9 a.m.