

**BEFORE THE TRIAL CHAMBER OF THE
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

Case No: 002/19-09-2007-ECCC/TC

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**DEFENCE FOR IENG THIRITH'S NOTIFICATION REGARDING
OPENING STATEMENT AND ORAL TESTIMONY OF THE ACCUSED AT TRIAL**

Defence for Ieng Thirith:

PHAT Pouv Seang
Diana ELLIS, QC

Trial Chamber Judges:

NIL Nonn, President
Silvia CARTWRIGHT
YOU Ottara
Jean-Marc LAVERGNE
Ya SOKHAN

Civil Party Co-Lead Lawyers:

PICH Ang
Elisabeth SIMONNEAU FORT

Co-Prosecutors:

CHEA Leang
Andrew CAYLEY

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1. On 17 October 2011 the Trial Chamber informed the parties by way of an email that opening statements in Case 002 will commence on 21 November 2011, later confirmed in a Memorandum.¹ The defence were notified that, in accordance with Internal Rule 89*bis*, each defence team will have half a day to make its opening statement, which includes any statement from the Accused.
2. The defence notes that in their Memorandum of 27 October 2011,² the Trial Chamber highlighted that the Co-Prosecutors are on notice that an Accused *may* choose to respond to questions following the opening of the substantive trial on 28 November 2011.
3. As previously indicated, and set out in the motion filed on 1 November 2011,³ the defence is unable to take instructions from the Accused due to her mental state, and in particular her memory impairment. As a consequence of this incapacity the Accused cannot contribute in any meaningful way to the preparation of her case for trial nor to its presentation before the Trial Chamber. She is not in a position to understand questions posed to her and respond in a rational and coherent manner. Due to significant deficits in her long and short term memory, the Accused is unable to provide information as to her activities and role during the relevant period of the indictment, namely between 1975 and 1979, or to recall events more generally in her early life and in the years following the collapse of the regime of Democratic Kampuchea. Accordingly, she will not be making any statement during the opening stage of the trial nor is she in a position to testify in the trial in the exercise of her fair trial rights. In the circumstances, the defence

¹ TC, Memorandum entitled 'Witness Lists for early trial segments, deadline for filing of admissibility challenges to documents and exhibits, and response to Motion E109/5', 25 October 2011, Document No. E131/1.

² TC, Memorandum entitled 'Trial Chamber Response to Co-Prosecutors' requests concerning Testimony of the Accused (E101 and E101/1), 27 October 2011, Document No. E101/5.

³ IT, List of Documents to be Admitted before the Trial Chamber in Connection with the Witnesses and Civil Parties who may be called during the First Three Weeks of Trial, 1 November 2011 (presently no document number).

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necessarily gives this indication to the Trial Chamber without the ability to have any meaningful discussion with Ieng Thirith on this matter.

Party	Date	Name Lawyers	Place	Signature
Co-Lawyers for Ieng Thirith	3 November 2011	PHAT Pouy Seang Diana ELLIS, QC	Phnom Penh	