



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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

Nation Religion Roi ជាតិសាសនាព្រះមហាក្សត្រ
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): 12 / 12 / 2012
ម៉ោង (Time/Heure): 09:00
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: S. N. N. P. N. N.

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

8 November 2012

Hearing of the Expert regarding IENG Sary' situation- Day 129

Prepared by:

Roger PHILLIPS and DUCH Phary

<u>Attendance Record</u>
Before: Judge NIL Nonn (President), Judge Jean-Marc LAVERGNE, Judge YA Sokhan, Judge YOU Ottara, Judge Silvia CARTWRIGHT.
Reserve Judges: Judge THOU Mony, Judge Claudia FENZ.
Greffiers: Ms. SE Kolvuthy, Mr. DUCH Phary, Mr. Roger Phillips.
OCP: Mr. William SMITH, Mr. CHAN Dararasmey.
Accused: Mr. IENG Sary.
Defence for the Accused: Mr. Andrew IANUZZI, Mr. Arthur VERCKEN, Mr. Michael G. KARNAVAS, Mr. ANG Udom.
Civil Parties: Ms. CHET Vanly, Ms. Elisabeth SIMONNEAU-FORT, Mr. SAM Sokong, Mr. PICH Ang, Mr. VEN Pov, Ms. SIN Soworn, Ms. Christine MARTINEAU, Mr. Pascal AUBOIN, Ms. Nushin SAKARATI, Ms. Beini YE.
Witness: Prof John CAMPBELL (Expert)
Others: Mr. Simon MEISENBERG, Ms. Anne-Elise JOLICARD.

<u>General court times</u>		
Day	Start time: 9:10	Finish time: 16:10
Recess am	Start time: 10:30	Finish time: 10:50

Recess	Start time: 12:10	Finish time: 13:30
Recess pm	Start time: 14:25	Finish time: 14:45
	Total Court Time:	5 hours

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Waiver of the Accused's right to be present in the courtroom	TC	9:27	9:29
Ruling on IENG Sary's condition and how the Chamber will proceed	TC	16:00	16:03
Questioning of the Expert A. John CAMPBELL	TC	9:34	10:30
	IS Defence	10:50	14:25
	OCP	14:45	15:51
	LPLCL	15:51	15:56

Summary of Proceedings

Questioning of the Expert professor A. John CAMPBELL:

The Trial Chamber put questions to the Expert, followed by the IENG Sary Defence, the Co-prosecutors and the Civil Party Lead Co-lawyers.

Ruling of the Trial Chamber on IENG Sary's condition:

The Trial Chamber noted that it was appropriate to make an interim determination concerning where Ieng Sary will reside pending the delivery of any decision on Ieng Sary's current health status. The Chamber has noted Professor Campbell's opinion that Ieng Sary does not currently require hospitalization.

The Trial Chamber, therefore, decided that Ieng Sary was to return to the detention center where he was to continue receiving full medical treatment as before and as discussed during today's hearing. In addition, the Trial Chamber directed the detention center to provide additional personal assistance to ensure Ieng Sary's physical safety and to enable him to attend to his more personal requirements such as toileting.

The Trial Chamber, therefore, ordered that the accused, Ieng Sary, be returned to the detention facility. It noted that the accused has waived his right to be present for the testimony of those witnesses who have been summoned to testify for the remainder of November 2012. Therefore, the Chamber does not require his presence in the holding cell during those hearings. Any decision that the Chamber determines concerning Ieng Sary's health status will follow in due course and an order requiring his attendance in the holding cells will also be given.

Waiver of the Accused's right to be present in the courtroom

The Accused IENG Sary waived his right to be present in the courtroom. IENG Sary was very fatigued, felt dizzy, and had some lower-back pain, and had poor vision, and could not walk or climb the stairs. However, the doctor indicated also that Mr. Ieng Sary was mentally and physically fit to observe the proceedings from his holding cell. Doctor indicated that Ieng Sary, in his holding cell, could consult with his counsels from there. Therefore the Chamber allowed Mr. Ieng Sary to observe the proceedings from his holding cell for the whole day.

Record of Rule 87(3) Proceedings

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
N/A	E222	00838758- 00838759 00837723- 00837723	អនុស្សរណៈរបស់អង្គជំនុំជម្រះសាលាដំបូងស្តីពី៖ ការពិនិត្យសុខភាពរបស់ជនជាប់ចោទ អៀង សារី Trial Chamber memorandum entitled "Medical examination of accused IENG Sary"	S			
N/A	E222/ 1	00847222- 00847243 00846186- 00846202	របាយការណ៍ពេទ្យរបស់អ្នកជំនាញទាក់ទងនឹងលោក អៀង សារី Expert Medical Report on Mr. IENG Sary	S		00846914, 00846191	
N/A	E238	00852376- 00852377 00851177- 00851177 00853092- 00853093	អនុស្សរណៈរបស់អង្គជំនុំជម្រះសាលាដំបូងស្តីពី៖ ការតែងតាំងសាស្ត្រាចារ្យ A. John CAMPBELL សម្រាប់ជនជាប់ចោទ អៀង សារី Trial Chamber memorandum entitled "Re-appointment of Professor A. John CAMPBELL (IENG Sary)" Mémorandum de la Chambre de première instance intitulé "Nouvelle désignation en tant qu'expert du professeur A. John CAMPBELL (s'agissant de IENG Sary)"	P			
N/A	E239	00855458- 00855458 00855457- 00855457	ការកំណត់កាលបរិច្ឆេទនៃការស្តាប់សក្ខីកម្មរបស់អ្នកជំនាញវេជ្ជសាស្ត្រ (សាស្ត្រាចារ្យ Campbell និង វេជ្ជបណ្ឌិត LOR Vann Thary) Scheduling of Medical Expert testimony (Professor Campbell and Dr. LOR Vann Thary)	P			

N/A	E239/ 1.1	00858138- 00858138 00858078- 00858078	អនុស្សរណៈស្តីពី៖ ការដកខ្លួនវេជ្ជបណ្ឌិត ឡេវ វណ្ណថារី ពីភារកិច្ចដូចមានរៀបរាប់ក្នុងឯកសារ E238 និងឯកសារ E239 Memorandum entitled "Dr. LOR Vann Thary withdrawal from expertise as described in E238 and E239"	C		
N/A	E115. 2.2	00741433- 00741477 00740661- 00740689	ប្រវត្តិរូបការងាររបស់វេជ្ជបណ្ឌិតHarold J. Bursztajn Curriculum Vitae of Harold J. Bursztajn, MD	C		
N/A	E11/8 7/2	00848124- 00848127 00848142- 00848144 00847922- 00847923	របាយការណ៍សុខភាពរបស់លោក អៀង សារី ថ្ងៃទី១៩ ខែកញ្ញា ឆ្នាំ២០១២ Medical report of IENG Sary on 19 September 2012 Rapport médical de IENG Sary du 19 septembre 2012	S		00848142
N/A	E238/ 4	00858941- 00858949 00858695- 00858701	របាយការណ៍អ្នកជំនាញស្តីអំពី លោក អៀង សារី ដែលត្រូវបានរៀបចំឡើងដើម្បីឆ្លើយតប ទៅនឹងសំណើរបស់អង្គជំនុំជម្រះសាលាដំ បូង (ឯកសារលេខ E238) Expert report relating to Mr. IENG Sary prepared in response to Trial Chamber request (E238)	S	00858949	00858700

Oral Orders/Decisions:

- Order allowing the Accused IENG Sary to participate from his holding cell (waiver of the Accused is attached to this written record).
- Order the Accused IENG Sary to be return to the detention facility. The Trial Chamber noted that the accused has waived his right to be present for the testimony of those witnesses who have been summoned to testify for the remainder of November 2012. Therefore, the Chamber will not require his presence in the holding cells during those hearings.
- Order to bring the Professor Campbell to his home.



Orders for Adjournment of Hearing

The hearing will resume on 12 November 2012 at 9:00 am.

Phnom Penh, 8 November 2012

Greffier

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Roger PHILLIPS

DUCH Phary