



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

ឯកសារដើម
ORIGINAL/ORIGINAL
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CMS/CFO: Uch Arun

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

14 January 2013

Trial Day 147

Before the Judges: NIL Nonn, Presiding
Silvia CARTWRIGHT
YA Sokhan
Jean-Marc LAVERGNE
THOU Mony
YOU Ottara (Absent)
Claudia FENZ (Reserve)

The Accused: IENG Sary
KHIEU Samphan

Lawyers for the Accused:

SON Arun
Victor KOPPE
ANG Udom
Michael G. KARNAVAS
KONG Sam Onn
Arthur VERCKEN

Trial Chamber Greffiers/Legal Officers:

SE Kolvuthy
Faiza ZOUAKRI
DAV Ansan

Lawyers for the Civil Parties:

For the Office of the Co-Prosecutors:

CHAN Dararasmey
Vincent DE WILDE D'ESTMAEL

Élisabeth SIMONNEAU-FORT
Beini YE
LOR Chunthy
SAM Sokong
HONG Kimsuon
CHET Vanly
SIN Soworn

For Court Management Section:

UCH Arun
SOUR Sotheavy

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MR. DE WILDE D'ESTMAEL	French
MR. KARNAVAS	English
MR. KOPPE	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. SIMONNEAU-FORT	French
MR. VERCKEN	French

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1 P R O C E E D I N G S

2 (Court opens at 0909H)

3 MR. PRESIDENT:

4 Please be seated. The Court is now in session.

5 According to our schedule, during today's sessions, we continue

6 hearing the testimony of Witness Chhaom Se. Hopefully, we will

7 conclude his testimony today, and we will proceed to hear

8 testimony of TCW-548 next.

9 The Chamber wishes to inform the parties to the proceedings and

10 the public that Judge You Ottara is absent, due to his personal

11 commitment. Having consulted with fellow Judges of the Bench,

12 Judge Thou Mony is now in his place. He will be sitting until the

13 time when Judge You Ottara is able to return to the Bench. This

14 ruling is in accordance with Internal Rules, Rule 79.4.

15 Now, Ms. Se Kolvuthy, you are now instructed to report to the

16 Chamber on the status of the parties to the proceedings today.

17 [09.12.22]

18 THE GREFFIER:

19 Mr. President and Your Honours, parties to the proceedings today

20 are present, except Mr. Ieng - rather, Mr. Nuon Chea, who is

21 unwell and is being admitted to the hospital.

22 Mr. Ieng Sary is observing the proceedings from holding cell,

23 when Mr. Pich Ang, national counsel for the lead - for the civil

24 parties, will be arriving late.

25 Mr. Chhaom Se is ready.

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1 And TCW-548 will be our next witness, who awaits call in the
2 waiting room. The witness has already confirmed that, according
3 to the witness's best knowledge, the witness is not in a
4 relationship with any of the Accused or a civil party admitted in
5 this case. The witness has already taken an oath. The witness has
6 no duty counsel.

7 Thank you, Mr. President.

8 [09.13.35]

9 MR. PRESIDENT:

10 Thank you, Ms. Se Kolvuthy.

11 We noted that international counsel for Mr. Nuon Chea was on his
12 feet. You may now proceed.

13 MR. KOPPE:

14 Thank you, Mr. President. Your Honours, good morning.

15 Yesterday, in the second part of the afternoon, we were informed
16 that our client has been - had been taken urgently to the
17 hospital because he had collapsed in prison - in the detention
18 centre.

19 This morning, we received a medical report - well, presumably a
20 preliminary medical report - indicating that, because of his
21 condition, a period of four to seven days he was - he is supposed
22 to be admitted in the hospital.

23 [09.14.36]

24 We - because this all happened the second part of the afternoon
25 on Sunday, we didn't have the opportunity to speak to our client

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1 about his situation and, more importantly, about the fact – about
2 the fact – if he actually is waiving his right to be present. So,
3 at this point in time, we cannot inform you on that particular
4 issue, if he informs – if he waives his right to be present.
5 And, because we have to go from the presumption of a non-waiver,
6 we would suggest that you give us the opportunity to speak to our
7 client this morning and that, once we have spoken to him, we will
8 get back to you on his issue – on the medical issues and the
9 question of waiver of his right to be present. And because of all
10 this, we request that the proceedings will be adjourned until we
11 have spoken to our client.

12 MR. PRESIDENT:

13 Thank you, Counsel.

14 To be clear on this, we would like to order that Ms. Se Kolvuthy
15 read the medical report by the treating doctor to the Chamber.

16 [09.16.20]

17 THE GREFFIER:

18 "Ministry of Health, the Khmer-Soviet Friendship Hospital.

19 "The treating doctors to the President of the Office of – rather,
20 of the Administration, through the Khmer-Soviet Friendship
21 Hospital.

22 "Subject: Medical report of Mr. Nuon Chea, born in 1926.

23 "He has been admitted to the hospital on the 13 of January 2013,
24 at 5.15 p.m.

25 "Diagnosis: He has suffered from bronchitis – severe bronchitis,

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1 and that - he has to be admitted to the hospital for at least
2 four to seven days.

3 "According to the above-mentioned subject, please, Your
4 Excellency, the President of the Court, be informed. Kem Samsan."
5 [09.17.37]

6 MR. PRESIDENT:

7 Thank you.

8 We would like now to hand over to the parties - the other parties
9 to the proceedings, including the Prosecution and the Lead
10 Co-Lawyers for the civil parties, to make any observation, should
11 they wish to do so, concerning the health status of Mr. Ieng -
12 Mr. Nuon Chea. Indeed, he has been admitted to the hospital, the
13 Khmer-Soviet Friendship Hospital, and remains there.

14 MR. DE WILDE D'ESTMAEL:

15 Good morning, Mr. President. Good morning, Your Honours. Thank
16 you for giving me the floor on this subject.

17 On our side, it seems to us that the request from the lawyers of
18 Nuon Chea seems to be reasonable, and it would certainly be
19 useful for them to be able to speak to their client to see
20 whether or not they have his mandate to renounce his right to be
21 present or not.

22 What does seem particularly important, especially if there were
23 no renunciation of his right to be present, would be that the
24 Chamber be kept regularly informed on his state of health so that
25 any assessment made by the Chamber about when the hearings can

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1 resume can be easily done.

2 [09.19.11]

3 It is, of course, our hope that any such interruption should be
4 limited, but it is a matter for the Accused.

5 That is all we have to say at this juncture, Mr. President.

6 MR. PRESIDENT:

7 Thank you.

8 International Lead Co-Lawyer for the civil parties, you may now
9 proceed.

10 MS. SIMONNEAU-FORT:

11 Good morning, Mr. President. Good morning, Your Honours.

12 At this stage, of course, we share the position of the
13 prosecutor, and we believe the Defence's request is entirely
14 reasonable. It is necessary for Mr. Nuon Chea's lawyers to be
15 able to see with him if he's going to waive his right to be
16 present.

17 But we do want to stress the fact that, as far as it is possible,
18 we would like the hearings to advance, if such is possible in the
19 respect of everybody's rights, and we would like to be kept
20 apprised of the evolution of the situation as soon as possible.

21 Thank you, Mr. President.

22 [09.20.22]

23 MR. PRESIDENT:

24 Thank you, Counsel.

25 Does any other parties to the proceedings wish to also make an

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1 observation on this?

2 MR. KARNAVAS:

3 Good morning, Mr. President. Good morning, Your Honours, and good
4 morning to everyone in and around the courtroom. We fully support
5 the request by the Nuon Chea team.

6 We have been adamant from day one that we have to respect the
7 fair-trial rights of all of the Accused at all times and we think
8 that this is a very reasonable request. And the question, then, I
9 think, today, when they visit their client, is whether indeed he
10 is capable of exercising that right, but that remains to be seen.

11 Thank you.

12 MR. PRESIDENT:

13 Thank you, Counsel.

14 International Co-Counsel for Mr. Khieu Samphan, you may now
15 proceed.

16 [09.21.20]

17 MR. VERCKEN:

18 Thank you, Mr. President. Very briefly, we have nothing, really,
19 to add to what has already been said about the request from the
20 Nuon Chea team. Thank you, sir.

21 MR. PRESIDENT:

22 Thank you, Counsels.

23 (Judges deliberate)

24 [09.25.32]

25 The Chamber would like to hand over to Judge Silvia Cartwright to

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1 shed light on how we handle this issue. You may proceed, Judge
2 Cartwright.

3 JUDGE CARTWRIGHT:

4 Thank you, President.

5 The Chamber appreciates the comments of the Nuon Chea defence
6 team and all other parties.

7 It has decided to monitor the situation, the medical condition of
8 Nuon Chea, and will adjourn today.

9 By Wednesday morning, the President will inform the parties of
10 any change to the sitting hours.

11 And we would appreciate it if the Nuon Chea defence team would
12 keep the Chamber informed of its discussions with Nuon Chea.

13 We will advise the parties if we are going to resume on
14 Wednesday, but Wednesday morning will be the next date, at the
15 latest, for further information for the parties.

16 Is that sufficiently clear to all the parties and, I hope, to the
17 public as well? Any questions?

18 Thank you.

19 [09.27.08]

20 MR. KARNAVAS:

21 I do have a question because I'm - does that mean that we come on
22 Wednesday morning?

23 JUDGE CARTWRIGHT:

24 No. I did try to explain that we will inform you by Wednesday
25 morning. And, if we are resuming on Wednesday morning, we will

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1 inform you of that.

2 Is that clear enough?

3 We're trying to be flexible here, Mr. Karnavas.

4 MR. KARNAVAS:

5 --very clear.

6 JUDGE CARTWRIGHT:

7 Thank you.

8 [09.27.41]

9 MR. PRESIDENT:

10 Thank you, Judge Cartwright.

11 We would like to inform the public and the parties to the
12 proceedings that today's hearing is adjourned. The next hearing
13 will be convened on Wednesday, at 9 a.m.

14 By Wednesday, as scheduled, we will continue hearing the
15 testimonies of Witness Chhaom Se. Hopefully we will have
16 concluded the testimonies of Witness Chhaom Se by then. Then we
17 will proceed to hear the testimony of TCW-548, accordingly.

18 Court officer is now instructed to coordinate with the WESU unit
19 to make sure that both witnesses are returned to their places and
20 have them returned to the courtroom on the morning of Wednesday.

21 Security personnel are now instructed to bring Mr. Khieu Samphan
22 and Ieng Sary to the detention facility and have them returned to
23 the courtroom - rather, have Mr. Khieu Samphan returned to the
24 courtroom by the 16 of January 2013, by 9 a.m., and have Mr. Ieng
25 Sary returned to his holding cell, where audio-visual link is

1 connected to, so that he can observe the proceedings from there.

2 The Court is adjourned.

3 (Court adjourns at 0929H)

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