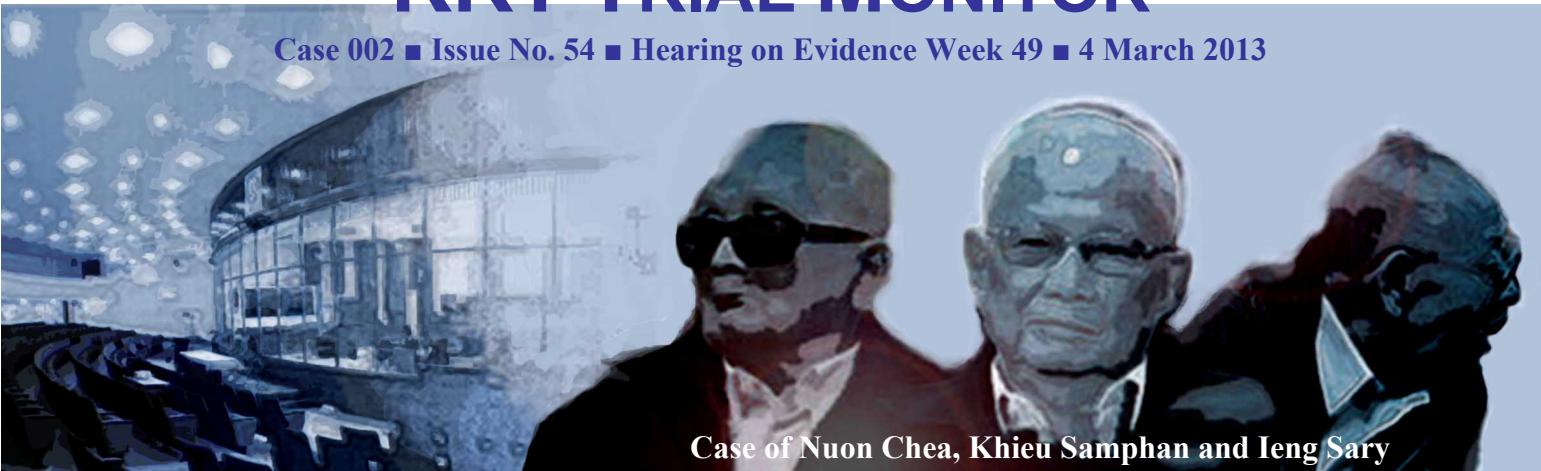


KRT TRIAL MONITOR

Case 002 ■ Issue No. 54 ■ Hearing on Evidence Week 49 ■ 4 March 2013



Case of Nuon Chea, Khieu Samphan and Ieng Sary

Asian International Justice Initiative (AIJI), a project of East-West Center and UC Berkeley War Crimes Studies Center

We, the ITU staff of the ECCC, are now implementing our work boycott.

- Staff, Interpretation and Translation Unit

I. OVERVIEW

In an unexpected turn of events, during what was scheduled to be the weeklong hearing of Expert Witness Philip Short, the staff of the ECCC's Interpretation and Translation Unit (**ITU**) announced a work boycott. They explained that they would not provide interpretation until they are paid salaries for the months of December 2012, January 2013, and February 2013. After an hour-long recess, the translators ultimately agreed to offer their services for 20 minutes, during which time the Trial Chamber discussed the health of the Accused Nuon Chea and Ieng Sary.

II. TRIAL MANAGEMENT

After 18 minutes of proceedings, the Trial Chamber was forced to adjourn Monday's hearing, due to the ITU's boycott, and because Ieng Sary had not waived his right to be present during Philip Short's testimony. No other sessions were held during the week.

A. ITU Boycott

Monday's proceedings began with an unexpected statement from the Court's interpreters and translators:

Mr. President, the message from the interpreters. Mr. President, your Honors, and the Parties to the proceedings: We, the ITU staff of the ECCC, are now implementing our work boycott. We won't get back to work unless our salaries for the months of December 2012, January, and February of 2013 are fully paid to us. Thank you Mr. President.

All the Parties and staff members seated in the courtroom were visibly stunned by the announcement. After a short deliberation, President Nil Nonn delivered a message in Khmer; no translation was rendered. Judge Silvia Cartwright followed up in English, explaining that the Judges will retire to consider the situation.

After nearly an hour, the Judges returned, and the Khmer-English translation, to the surprise of the public and the Parties, resumed. In an unusual exchange, the President asked the

ITU whether the interpreters could assist the Chamber in interpreting, to which an interpreter replied:

Mr. President the interpreters are present in the courtroom for precisely half an hour. In other words, for the next 20 minutes. After that, it is not technically feasible to continue.

Judge Cartwright explained that the administration agreed to provide the Chamber with temporary English and Khmer translations; however, French speakers had to confer with their colleagues.

B. Health of the Accused Nuon Chea and Ieng Sary

The President announced that, on 1 March 2013, the Accused, Nuon Chea, made a “personal application” to the Trial Chamber, expressing his desire to participate in all proceedings in the hearing. However, suffering from the inability to control his bowels, as well as lack of concentration, Nuon Chea requested not to participate in Monday’s proceeding. He asked the Trial Chamber to defer hearing Expert Witness Philip Short’s testimony until he recovered from his illness. The Trial Chamber received a medical report from the Court physician at 7:30am, Monday morning, confirming that Nuon Chea had problems with his bowel system and was experiencing dizziness and nausea.¹ The Trial Chamber concluded that the “general health condition of the Accused is not that great, but he is able to participate remotely from the holding cell downstairs.”

The Trial Chamber also informed the public that the Accused, Ieng Sary, was admitted to the Khmer-Soviet Friendship Hospital early Monday morning. Though the national counsel, Mr. Ang Udom, left to accompany his client at the hospital, he had not yet been able to speak with Ieng Sary to see whether or not the Accused waived his right to be present during the proceedings. For that reason, the President explained, the Court would have to reschedule Philip Short’s testimony, and could not provide a definite date for when the Chamber would resume its proceedings.

C. Court Scheduling

On 6 March 2013, the Trial Chamber released a memorandum entitled “Postponement of Expert Testimony.”² According to this memorandum, the Chamber cannot proceed with the testimony of experts Philip Short and Elizabeth Becker, due to Ieng Sary’s health condition and the ITU boycott. Further information regarding Short’s and Becker’s rescheduling will be provided to the Parties “in due course.”

As the Trial Chamber indicated in an earlier decision, the Court will not hear additional fact witnesses prior to a new severance decision.³ Additionally, the Chamber will not issue its decision on severance until it hears the expert medical assessment on Ieng Sary’s and Nuon Chea’s fitness to stand trial. The hearing of the medical assessment is scheduled to commence on 25 March 2013. Thus, after the Chamber issues its decision on severance and hears the medical experts’ assessment of the Accused’s fitness to stand trial, it will issue further information regarding trial scheduling.

D. Attendance

Khieu Samphan was the only defendant seated in the courtroom on Monday morning. Nuon Chea was physically ill and therefore remained in the holding cell. Ieng Sary was absent from the Court, as he had been admitted to the Khmer-Soviet Friendship Hospital early Monday morning.

Parties Attendance: All Parties were represented in the courtroom, although national counsel for Ieng Sary, Ang Udom, left to accompany his client to the Khmer-Soviet Friendship Hospital.

Civil Parties Attendance: Approximately 10 Civil Parties were seated in the courtroom for Monday's hearing.

Attendance by the Public:

DATE	MORNING	AFTERNOON
Monday 04/03/13	<ul style="list-style-type: none"> ▪ 120 villagers from Somraong District, Kampong Speu Province ▪ 10 foreign observers 	(No court proceedings.)

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS IN SESSION
Monday 04/03/13	9:20	9:26-10:20	10:32	-	-	18 minutes
Average number of hours in session				18 minutes		
Total number of hours this week				18 minutes		
Total number of hours, days, weeks at trial			683 hours 48 minutes			
158 TRIAL DAYS OVER 50 WEEKS						

Unless specified otherwise,

- the documents cited in this report pertain to *The Case of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan* before the ECCC;
- the quotes are based on the personal notes of the trial monitors during the proceedings;
- the figures in the *Public Attendance* section of the report are only approximations; and
- photos are courtesy of the ECCC.

Glossary of Terms

Case 001	<i>The Case of Kaing Guek Eav alias “Duch”</i> (Case No. 001/18-07-2007-ECCC)
Case 002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan</i> (Case No. 002/19-09-2007-ECCC)
CPC	Code of Criminal Procedure of the Kingdom of Cambodia (2007)
CPK	Communist Party of Kampuchea
CPLCL	Civil Party Lead Co-Lawyer
DK	Democratic Kampuchea
ECCC	Extraordinary Chambers in the Courts of Cambodia (also referred to as the Khmer Rouge Tribunal or “KRT”)
ECCC Law	Law on the Establishment of the ECCC, as amended (2004)
ERN	Evidence Reference Number (the page number of each piece of documentary evidence in the Case File)
FUNK	National United Front of Kampuchea
GRUNK	Royal Government of National Union of Kampuchea
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IR	Internal Rules of the ECCC Rev. 8 (2011)
KR	Khmer Rouge
OCIJ	Office of the Co-Investigating Judges
OCP	Office of the Co-Prosecutors of the ECCC
RAK	Revolutionary Army of Kampuchea
VSS	Victims Support Section
WESU	Witness and Expert Support Unit



* AIJI is a collaborative project between the East-West Center, in Honolulu, and the War Crimes Studies Center, University of California, Berkeley. Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in South-East Asia. The Program is funded by the Open Society Foundation, the Foreign Commonwealth Office of the British Embassy in Phnom Penh, and the Embassy of Switzerland in Bangkok.

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¹ According to AIJI's Cambodian monitor, the President, speaking in Khmer, informed the public that Nuon Chea had been urinating and defecating on himself. These details, however, did not come through in the English translation.

² Trial Chamber. “Postponement of Expert Testimony” (6 March 2013). E264/3.

³ See Trial Chamber, "Scheduling of Experts Philip Short and Elizabeth Becker and postponement of Fact Witnesses until Decision on Severance" (26 February 2013), E264/1, Par. 3.