

Court Delays Treason Trial Against Scores of Opposition Members

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Cambodian American advocate Seng Theary arrives at the Phnom Penh Municipal Court on November 26, 2020. (Aun Chhengpor/VOA Khmer)

PHNOM PENH —

A Phnom Penh court commenced one of the biggest political trials involving more than 130 people linked to the Cambodia National Rescue Party, only to delay the proceedings and schedule two separate hearings in January and March 2021.

The Phnom Penh Municipal Court held a trial hearing involving at least 137 people on alleged conspiracy and incitement charges, linked to the unsuccessful return of party leader Sam Rainsy in November 2019. The charges have been filed against senior members of the CNRP, former lower level party officials, and their supporters, some of whom are foreign nationals.



Ney Leak, a former deputy commune chief in Battambang city, shows the summons before she attends a trial hearing at Phnom Penh Municipal Court on November 26, 2020. (Aun Chhengpor/VOA Khmer)

The court had issued summons for around 138 individual defendants, based on court documents made public, and linked to four case files. Presiding judge Ros Piseth ruled that the four case files would be combined into two separate cases moving forward, which would be tried on January 14 and March 4, 2021, respectively.

“Article 299 on the combination of procedures is for the benefit of the accused, the parties and the court,” said Ros Piseth, without providing details of how this would benefit them.

The prosecutor had requested that the case filed be combined again saying this was for the benefit of the defendants because the facts were similar to the combined case files. Defense lawyers Lor Chunthy and Sam Sokong said they had no objection to the combining of case files but needed more time to prepare a defense.

The proceedings were chaotic to start with after it took the court clerk and the panel of judges multiple attempts to ascertain which defendants were present in court. After three roll calls, court observers counted 33 defendants present in court, with court spokesperson Kuch Kimlong saying

there were 34 and defense lawyer Lor Chunthy counting 35 defendants.

Initially, there were only a handful of defendants to start the trial but midway through the proceedings wooden benches were brought into court and more than 20 defendants were ushered into the court, making the statements of the judges, lawyers and prosecution inaudible.

Some of the defendants complained that they had not received official summons or that the name, address and other information on the documents were inaccurate.



Former Senator Thach Setha departs from Phnom Penh Municipal Court on November 26, 2020. (Ananth Baliga)

Thach Setha, former Sam Rainsy Party senator, said the name and address on the summons was incorrect. While he had not received the summon, he had read in the media that he was expected to appear before court on Thursday.

“I don’t even know what wrong [action] I have done?” he said, eliciting no response from the panel.

Leng Vibol, a former CNRP official, said that he had not received a summon

as well but travelled from Banteay Meanchey because he saw his name as a defendant in the news. He left the province on Wednesday and said the court summon was delivered to his home shortly after his departure.

“They sent the summons yesterday,” he said. “This is so late.”

Presiding judge Ros Piseth did not rule on these observations and said that all defendants were being informed in court on their next appearance, either January 14 or March 4.

Another contentious issue was legal representation for the defendants present in court. Defense lawyers Lor Chunthy and Sam Sokong said they were representing some of the defendants, including senior CNRP leaders and former Phnom Penh commune councilor Kak Komphear.

Kak Komphear has already been convicted by a Phnom Penh court in 2019, again for conspiracy, insult and incitement, and sentenced to 20 months in prison.

However, there were six other defense lawyers present in court, who had been assigned by the Bar Association of the Kingdom of Cambodia (BAKC) to defend the scores of defendants.

The six lawyers were: Yung Phanith, Nhor Nhen, Ly Ratana, Chum Iek, Sin Soworn and Chhe Vibol.

Yung Phanith said that they were appointed by the bar because defendants with felony charges and cases involving minors had to have legal representation.

Defendant and rights advocate Seng Theary informed the court that she had the right to refuse a lawyer and did not want one appointed to her. She addressed the court multiple times to remind the prosecution and bar lawyers that they did not represent her.

“I do not want lawyers and want to keep my voice,” she said in court. “I just want my voice to be heard.”

Seng Theary, who is Cambodian American lawyer, also said that she had yet to get a copy of the investigating judge’s final report on the case, with the presiding judge asking her to make a formal request for the document.

Yung Phanith asked the court to ascertain if the services of six lawyers were needed, and if not, they would withdraw from the case. Judge Ros Piseth

asked all the defendants to inform the court 14 days prior to their trial date if they had legal representation or else a lawyer would be assigned to them.



Security forces guard the Phnom Penh Municipal Court on November 26, 2020. (Aun Chhengpor/VOA Khmer)

Chin Malin, a Justice Ministry spokesperson, said the large number of defendants was justified because they had all participated in an “organized crime.”

"When it is an organized crime there are a number of people involved including the masterminds, the accomplices, the participants, the perpetrators, the supporters, and the executors," he said.

“Those are all the people involved and, in accordance with criminal justice concepts, are subject to be equally responsible within the laws accordingly.”

Chak Sopheap, executive director at the Cambodian Center for Human Rights, said it was interesting to see the readiness of the defendants to partake in the proceedings, pointing to defendants who had not received summons but still decided to appear in court.

She added that the court should in return ensure their fair trial rights were

not violated. She noted the procedural flaws highlighted in the hearing.

“It indicates how much willingness the [defendants] have offered to the court and the failure of the court to ensure a proper proceeding,” she said, after attending the hearing.

U.N. special rapporteur Rhona Smith on Wednesday issued a statement expressing “serious concern” over the “politically motivated” trial.

“The mass trials of CNRP activists appear to be politically motivated, lacking clear legal grounds and constitute a serious violation of the due process rights, firmly established by international human rights law,” Smith said in the statement.

In response, Cambodia’s permanent mission to the U.N. referred to Rhona Smith as a “so-called expert, who is not the UN staff member” and defended the judicial proceedings.

“The premise that the hearings of certain individuals are politically motivated and form an intimidation strategy against dissenting voices is an exaggeration and indicative of utter contempt for the independent judiciary of a sovereign state,” the statement from Cambodia's U.N. mission reads.

Details: <https://www.voacambodia.com/a/court-delays-treason-trial-against-scores-of-opposition-members/5678694.html>