

CASE INFORMATION SHEET



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Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

KAING GUEK EAV, alias DUCH



Last name: **KAING**

First name: **Guek Eav**

Case File N° 001/18-07-2007/ECCC-TC

Next Public Hearing: 26 July 2010. Pronouncement of verdict.

Born on 17 November 1942 in the village of Poevvey in the province of Kompong Thom

Initially detained by Order of Provisional Detention, 31 July 2007, currently detained by order issued by Trial Chamber on 15 June 2009.

Defence Counsel: Kar Savuth (National)

Indicted and sent to trial for **Crimes Against Humanity, Grave Breaches of the Geneva Conventions** of 1949, and **Homicide** and **Torture** pursuant to the 1956 Penal Code: offences which are defined and punishable under Articles 3, 5, 6, 29 and 39 of the Law on the establishment of the Extraordinary Chambers as amended 27 October 2004.

Status

After an Initial Hearing on 17 and 18 February 2009, the substantive part of the trial commenced on 30 March 2009. Duch's trial concluded 27 November 2009. During the 77 days of trial, 9 expert witnesses, 17 fact witnesses, 7 character witnesses and 22 Civil Parties were heard before the Trial Chamber. More than 31,000 people followed the proceedings at the court building.

Position in Democratic Kampuchea Regime

Deputy Secretary then Secretary of S-21 (the security centre widely known as Tuol Sleng)

Duch acknowledges that he was head of S-21. From 1975 to 1979, Duch allegedly occupied posts at "Office S-21", the headquarters of the Communist Party of Kampuchea (CPK) Special Branch of the secret police (*Santebal*). S-21 was unique in the network of security centres given its direct link to the Central Committee and its role in the detention and execution of CPK cadre.

Key Allegations

Over 15,000 prisoners were reportedly executed or died from torture and/or poor detention conditions at S-21. After his promotion from Deputy-Secretary to Chairman and Secretary of S-21 in March 1976, Duch allegedly continued to personally oversee the interrogation of the most important prisoners and to be ultimately responsible for S-21. Initially, prisoners were executed and buried in and around S-21. Somewhere between 1976 and mid 1977, partly in order to avoid the risk of epidemic, the execution site was relocated to Choeng Ek outside of Phnom Penh though some executions and burials continued to take place at or near S-21. Choeng Ek consisted of a wooden house where prisoners were held until just before their execution and a large area with pits for executions.

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Key Allegations

In August 2008, the Co-Investigating Judges found that there was sufficient evidence to indict Duch for crimes against humanity and grave breaches of the Geneva Conventions of 1949. According to the Co-Investigating Judges' Closing Order, the investigation demonstrated that, while Duch was not a senior leader of Democratic Kampuchea, he may be considered one of those most responsible for crimes and serious violations committed between 17 April 1975 and 6 January 1979, due to his hierarchical authority and his personal participation as Deputy Secretary then Secretary of S-21. The Pre-Trial Chamber subsequently amended the Closing Order to include an indictment for the domestic crimes of homicide and torture.

Personal Background

In 1965 Duch became a mathematics teacher, and was allegedly drawn toward communism. He was arrested in 1968 by Sihanouk's police, then set free when Sihanouk was overthrown in 1970. From July 1971 until January 1975, Duch was allegedly the Chairman of Office 13 or M13 (another Communist Party security office north of Phnom Penh). He allegedly remained with the Khmer Rouge until he returned to teaching in the early 1990s. After the death of his wife in a burglary in 1995, he converted to Christianity and moved to the sub-district Samlaut where he lived until being discovered by a journalist in 1999. He was then arrested by the Cambodian military authorities.

Select Key Public ECCC Decisions & Orders*

- 31 Jul. 07 – Provisional Detention Order, Co-Investigating Judges
- 3 Dec. 07 – Decision on Appeal Against Provisional Detention Order, Pre-Trial Chamber. (*Affirming the Co-Investigating Judges' Provisional Detention Order of 31 Jul. 2007.*)
- 20 Jun. 08 – Order Concerning Translation Rights and Obligations of the Parties, Co-Investigating Judges
- 28 Jul. 08 – Order on Extension of Provisional Detention, Co-Investigating Judges
- 8 Aug. 08 – Closing Order Indicting Duch, Co-Investigating Judges
- 13 Oct. 08 – Decision on Notification of Recusal of Judge Ney Thol, Pre-Trial Chamber. (*Accepting Judge Ney Thol's notification of recusal.*)
- 5 Dec. 08 – Decision on Appeal Against Closing Order Indicting Duch, Pre-Trial Chamber. (*Granting the Co-Prosecutors' appeal to include the domestic crimes of homicide and torture in the Closing Order, but denying their request to include Joint Criminal Enterprise as a mode of liability.*)
- 23 Feb. 09– Order Scheduling the Start of the Substantive Hearing and Sitting Days for First Three Months. (*Initial Hearing to be held on 17 and 18 Feb. 2009*)
- 4 Mar. 09– Decision on the Civil Party Status of Applicants E2/36 and E2/69 (*Decides that Applicant E2/69 is admitted as a Civil Party against the Accused and declares Civil Party Application E2/36 inadmissible in the case*)
- 10 Mar. 09– Decision on admissibility of new materials and direction to the parties

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- 10 Mar. 09– Decision on request to extend deadline for the filing of civil party applications (*Motion is rejected*)
- 13 Mar. 09– Decision on motion regarding deceased civil party (*Decides that the husband of Civil Party is authorized on behalf of his deceased wife to continue the civil action*)
- 27 Mar. 09– Decision on the request of the co-lawyers for civil parties group 2 to make an opening statement during the substantive hearing (*Request is denied*)
- 31 Mar. 09– Decision on the request for members of the defence to meet the accused (*Grants the request on the condition that a member of the Defence team accompanies those visiting the accused*)
- 26 May 09– Decision on admissibility of material on the Case File as Evidence (*Grants the Defence request, grants the Office of the Co-Prosecutors request*)
- 2 June 09– Decision on protective measures for Civil Parties
- 15 June 09– Decision on Request for release (*Denies the request for release, orders that the Accused shall remain in provisional detention for the duration of the trial*)
- 29 July 09 – Decision on the Vietnamese Film Footage Filed by the Co-Prosecutors and on Witnesses CP3/3/2 and CP3/3/3
- 4 Sept. 09 – Decision on the Request by Co-Lawyers Group 2 for Extension of Time for Filing Documents relevant to Civil Parties (*Grants the request and orders that Civil Party (Group 2) shall file documents by no later than 10 Sept 2009 at 4 pm*)
- 23 Sep. 09– Decision on Group 1- Civil Parties' Co-Lawyers' Request that the Trial Chamber Facilitate the Disclosure of an UN-OIOS Report to the Parties (*Denies the request*)
- 21 Oct. 09– Decision on Rule 92 Submission by Co-Lawyers for Civil Parties (Group 2) (*Rejects the request*)
- 28 Oct. 09– Decision on Parties Requests to Put Certain Documents before the Chamber Pursuant to Rule 87(2)
- 28 Dec. 09– Decision on the Appeals filed by lawyers for Civil Parties (Groups 2 and 3) against the Trial Chamber's Oral Decision of 27 August 2009 (*Finding the appeals inadmissible and rejects them accordingly*)
- 4 Feb. 10– Order relevant to the 2009 Penal Code of Cambodia (*Decides to allow Parties to make submissions on relevant provisions within one week after the filing of the French and English versions of the Code*)

*These and other Decisions and Orders are available at: http://www.eccc.gov.kh/english/court_doc.list.aspx

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Case Information Sheets are prepared by the Public Affairs Section to assist public understanding of the cases before the ECCC. While every effort is made to ensure the accuracy of information, they are not official documents with any legal standing.

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