

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA
BEFORE THE CO-INVESTIGATING JUDGES

Investigation File No. : 001/18-07-2007/ECCC/OCIJ
Filed to : Co-Investigating Judges
Date of Document : 18 July 2008
Party Filing : Co-Prosecutors
Original Language : English
Type of Document : CONFIDENTIAL

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):18/07/2008.....
ម៉ោង (Time/Heure):.....15:30.....
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier:.....C.A. FRY.....

RULE 66 FINAL SUBMISSION REGARDING KAING GUEK EAV alias "DUCH"

TABLE OF AUTHORITIES

Filed by:

Office of the
Co-Prosecutors:
Ms. CHEA Leang
Mr. Robert PETIT
Mr. YET Chakriya
Mr. William SMITH
Mr. PICH Sambath
Mr. Alex BATES

Distributed to:

Office of the
Co-Investigating Judges:
Judge YOU Bunleng
Judge Marcel LEMONDE

Copied to:

Counsel for the
Charged Person:
Mr. KAR Savuth
Mr. François ROUX

Counsel for the
Civil Parties:
Mr. KONG Pisey
Mr. HONG Kimsuon
Mr. YONG Panith
Ms. Silke STUDZINSKY

ឯកសារប្រាប់ថាជាកម្រិតដើមតាមច្បាប់ដើម
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME
ថ្ងៃ ខែ ឆ្នាំ ធ្វើការបញ្ជាក់ (Certified Date/Date de certification):21/07/2008.....
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier:.....SANN RADA.....

ECCC DOCUMENTS

1. ECCC Law – *Not included* – *ECCC Legal Compendium*.
2. UN – RGC Agreement – *Not included* – *ECCC Legal Compendium*.

INTERNATIONAL LAW

Treaties and Resolutions

3. Geneva Convention (III) relative to the Treatment of Prisoners of War, 12 August 1949, entered into force 21 October 1950, *Authority 1*.
4. Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 August 1949, entered into force 21 October 1950, *Authority 2*.

Rules of International Criminal Tribunals

5. Statute of the International Criminal Tribunal for the former Yugoslavia – *Not included* – *Already on Case File*.
6. Statute of the International Criminal Tribunal for Rwanda – *Not included* – *Already on Case File*.
7. Statute of the Special Court for Sierra Leone – *Not included* – *Already on Case File*.
8. Rome Statute of the International Criminal Court – *Not included* – *Already on Case File*.
9. Charter of the International Military Tribunal, 8 August 1945. *Authority 3*.
10. Charter of the International Military Tribunal for the Far East, 19 January 1946. *Authority 4*.
11. Control Council Law No. 10, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity, 20 December 1945. *Authority 5*.

Cambodian Law

12. Code Pénal et Lois Pénales (excerpt), (1956), *Authority 6*.

Case Law

International Criminal Tribunal for Rwanda (ICTR)

13. *Prosecutor v. Akayesu*, Judgment and Sentence, Case No. ICTR-96-4-T, ICTR Trial Chamber, 2 September 1998, para. 471 - 582. *Authority 7*.
14. *Prosecutor v. Akayesu*, Judgment, Case No. ICTR-96-4-A, ICTR Appeals Chamber, 1 June 2001, para. 458 - 583. *Authority 8*.

15. *Prosecutor v. Bagilishema*, Judgment, Case No. ICTR-95-1A-T, ICTR Trial Chamber, 7 June 2001, para. 26 - 50. **Authority 9.**
16. *Prosecutor v. Bagilishema*, Judgment, Case No. ICTR-95-1A-A, ICTR Appeals Chamber, 3 July 2002, para. 26 - 58. **Authority 10.**
17. *Prosecutor v. Kayishema and Ruzindana*, Judgment, Case No. ICTR-95-1-T, ICTR Trial Chamber, 21 May 1999, para. 133 - 189, 185 - 190. **Authority 11.**
18. *Prosecutor v. Kayishema and Ruzindana*, Judgment, Case No. ICTR-95-1-A, ICTR Appeals Chamber, 1 June 2001, para. 185 - 190, 293 - 302. **Authority 12.**
19. *Prosecutor v. Kajelijeli*, Judgment and Sentence, Case No. ICTR-98-44A-T, ICTR Trial Chamber, 1 December 2003, para. 756 - 769, 968. **Authority 13.**
20. *Prosecutor v. Gacumbitsi*, Judgment, Case No. ICTR-2001-64-A, ICTR Appeals Chamber, 7 July 2006, para. 158 - 161. **Authority 14.**
21. *Prosecutor v. Semanza*, Judgment and Sentence, Case No. ICTR-97-20-T, ICTR Trial Chamber, 15 May 2003, para. 373 - 399. **Authority 15.**
22. *Prosecutor v. Musema*, Judgment and Sentence, Case No. ICTR-96-13-T, ICTR Trial Chamber, 27 January 2002, para. 118 - 129, 168 - 175, 863 - 895. **Authority 16.**
23. *Prosecutor v. Ndindabahizi*, Judgment and Sentence, Case No. ICTR-2001-71-I, ICTR Trial Chamber, 15 July 2004, para. 452 - 457. **Authority 17.**
24. *Prosecutor v. Niyitegeka*, Judgment and Sentence, Case No. ICTR-96-14-T, ICTR Trial Chamber, 16 May 2003, para. 470 - 478, 501 - 505. **Authority 18.**

International Criminal Tribunal for the Former Yugoslavia (ICTY)

25. *Prosecutor v. Aleksovski*, Judgment, Case No. IT-95-14/1, ICTY Trial Chamber, 25 June 1999, para. 60 - 90, 103 - 107, 210 - 229. **Authority 19.**
26. *Prosecutor v. Aleksovski*, Judgment, Case No. IT-95-14/1-A, ICTY Appeals Chamber, 24 March 2000, para. 68 - 77, 160 - 163. **Authority 20.**
27. *Prosecutor v. Blagojevic and Jokic*, Judgment, Case No. IT-02-60-T, ICTY Trial Chamber, 17 January 2005, para. 541 - 552, 570 - 584, 621 - 638. **Authority 21.**
28. *Prosecutor v. Blaskic*, Judgment, Case No. IT-95-14-T, ICTY Trial Chamber, 3 March 2000, para. 148 - 158, 276 - 310. **Authority 22.**
29. *Prosecutor v. Blaskic*, Judgment, Case No. IT-95-14-A, ICTY Appeals Chamber, 29 July 2004, para. 41 - 72, 101 - 115, 127 - 139, 167, 372 - 376, 417 - 418, 664 - 665. **Authority 23.**

30. *Prosecutor v. Brdjanin*, Judgment, Case No. IT-99-36-T, ICTY Trial Chamber, 1 September 2004, para. 125 - 141, 272 - 280, 378 - 397, 480 - 486, 989 - 1000. **Authority 24.**
31. *Prosecutor v. Brdjanin*, Judgment, Case No. IT-99-36-A, ICTY Appeals Chamber, 3 April 2007, para. 409 - 434. **Authority 25.**
32. *Prosecutor v. Delalic, Mucic aka "Pavo", Delic and Landzo aka "Zenga"*, Judgment, Case No. IT-96-21-T, ICTY Trial Chamber, 16 November 1998, para. 394 - 396, 508 - 511, 541 - 546. **Authority 26.**
33. *Prosecutor v. Delalic, Mucic aka "Pavo", Delic and Landzo aka "Zenga"*, Judgment, Case No. IT-96-21-A, ICTY Appeals Chamber, 20 February 2001, para. 186 - 199, 219 - 303. **Authority 27.**
34. *Prosecutor v. Deronjic*, Judgment on Sentencing Appeal, Case No. IT-02-61-A, ICTY Appeals Chamber, 20 July 2005, para. 107 - 112. **Authority 28.**
35. *Prosecutor v. Furundzija*, Judgment, Case No. IT-95-17/1-T, ICTY Trial Chamber, 10 December 1998, para. 209 - 212. **Authority 29.**
36. *Prosecutor v. Galic*, Judgment, Case No. IT-98-29-T, ICTY Trial Chamber, 5 December 2003, para. 139 - 155. **Authority 30.**
37. *Prosecutor v. Hadzihasanovic, Alagic and Kubura*, Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, Case No. IT-01-47-AR72, ICTY Appeals Chamber, 16 July 2003. **Authority 31.**
38. *Prosecutor v. Halilovic*, Judgment, Case No. IT-01-48-T, ICTY Trial Chamber, 16 November 2005, para. 24 - 31. **Authority 32.**
39. *Prosecutor v. Jelusic*, Judgment, Case No. IT-95-10-T, ICTY Trial Chamber, 14 December 1999, para. 53 - 57. **Authority 33.**
40. *Prosecutor v. Kordic and Cerkez*, Judgment, Case No. IT-95-14/2-T, ICTY Trial Chamber, 26 February 2001, para. 227-229, 237 - 246, 292 - 304, 424 - 428, 436 - 437. **Authority 34.**
41. *Prosecutor v. Kordic and Cerkez*, Judgment, Case No. IT-95-14A, ICTY Appeals Chamber, 17 December 2004, para. 25 - 43, 93 - 102, 112 - 117, 180 - 183, 299 - 335, 663 - 676. **Authority 35.**
42. *Prosecutor v. Krajisnik*, Judgment, Case No. IT-00-39-T, ICTY Trial Chamber, 27 September 2006, para. 710 - 717. **Authority 36.**
43. *Prosecutor v. Krnojelac*, Judgment, Case No. IT-97-25-T, ICTY Trial Chamber, 25 March 2002, para. 87 - 89, 439 - 467. **Authority 37.**

44. *Prosecutor v. Krnojelac*, Judgment, Case No. IT-97-25-A, ICTY Appeals Chamber, 17 September 2003, para. 28 - 33, 64 - 114, 143 - 158, 171 - 188. **Authority 38.**
45. *Prosecutor v. Krstic*, Judgment, Case No. IT-98-33-T, ICTY Trial Chamber, 2 August 2001, para. 493 - 503, 600 - 601. **Authority 39.**
46. *Prosecutor v. Kunarac, Kovac and Vukovic*, Judgment, Case No. IT-96-23-T, IT-96-23/1-T, ICTY Trial Chamber, 22 February 2001, para. 387 - 399, 496 - 497, 538 - 543. **Authority 40.**
47. *Prosecutor v. Kunarac, Kovac and Vukovic*, Judgment, Case No. IT-96-23, IT-96-23/1-A, ICTY Appeals Chamber, 12 June 2002, para. 81 - 125, 142 - 150. **Authority 41.**
48. *Prosecutor v. Zoran Kupreskic, Mirjan Kupreskic, Vlatko Kupreskic, Josipovic, Papic and Santic aka "Vlado"*, Judgment, Case No. IT-95-16-T, ICTY Trial Chamber, 14 January 2000, para. 547 - 550, 824 - 828, 864 - 868. **Authority 42.**
49. *Prosecutor v. Kvocka*, Judgment, Case No. IT-98-30/1-T, ICTY Trial Chamber, 2 November 2001, para. 151 - 207, 248 - 263, 319 - 368, 720 - 725, 24 - 26 [annex: amended indictment]. **Authority 43.**
50. *Prosecutor v. Kvocka, Radic, Zigic and Prcac*, Judgment, Case No. IT-98-30/1-A, ICTY Appeals Chamber, 28 February 2005, para. 77 - 100, 314 - 325, 363 - 370, 454. **Authority 44.**
51. *Prosecutor v. Limaj, Bala and Musliu*, Judgment, Case No. IT-03-66-T, ICTY Trial Chamber, 30 November 2005, para. 179 - 191, 233 - 240, 508 - 509. **Authority 45.**
52. *Prosecutor v. Milutinovic, et al.*, Decision on Dragoljub Ojdanic's Motion Challenging Jurisdiction – Joint Criminal Enterprise, Case No. IT-99-37-AR72, ICTY Appeals Chamber, 21 May 2003. **Authority 46.**
53. *Prosecutor v. Mrksic, Radic and Sljivancanin*, Judgment, Case No. IT-95-13/1-T, ICTY Trial Chamber, 27 September 2007, para. 438 - 442, 540 - 547. **Authority 47.**
54. *Prosecutor v. Naletilic aka "Tuta" and Martinovic aka "Stela"*, Judgment, Case No. IT-98-34-T, ICTY Trial Chamber, 31 March 2003, para. 58 - 63, 176 - 182, 201 - 209, 235 - 236, 245 - 250, 338 - 334. **Authority 48.**
55. *Prosecutor v. Nikolic*, Sentencing Judgment, Case No. IT-94-2-S, ICTY Trial Chamber, 18 December 2003, para. 64 - 75, 175 - 183. **Authority 49.**
56. *Prosecutor v. Simic, Tadic and Zaric*, Judgment, Case No. IT-95-9-T, ICTY Trial Chamber, 17 October 2003, para. 46 - 53, 58 - 66, 137 - 139. **Authority 50.**
57. *Prosecutor v. Stakic*, Judgment, Case No. IT-97-24-T, ICTY Trial Chamber, 31 July 2003, para. 422 - 447, 561, 618 - 629, 637 - 640. **Authority 51.**

58. *Prosecutor v. Stakic*, Judgment, Case No. IT-97-24-A, ICTY Appeals Chamber, 22 March 2006, para. 63 - 66. **Authority 52.**
59. *Prosecutor v. Strugar*, Judgment, Case No. IT-01-42-T, ICTY Trial Chamber, 31 January 2005, para. 370 - 379. **Authority 53.**
60. *Prosecutor v. Tadic*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, Case No. IT-94-1-A, ICTY Appeals Chamber, 2 October 1995, para. 66 - 70. **Authority 54.**
61. *Prosecutor v. Tadic*, Judgment, Case No. IT-94-1-T, ICTY Trial Chamber, 7 May 1997, para. 688 - 693. **Authority 55.**
62. *Prosecutor v. Tadic*, Judgment, Case No. IT-94-1-A, ICTY Appeals Chamber, 15 July 1999, para. 161 - 168, 185 - 229. **Authority 56.**
63. *Prosecutor v. Vasiljevic*, Judgment, Case No. IT-98-32-T, ICTY Trial Chamber, 29 November 2002, para. 27 - 70. **Authority 57.**
64. *Prosecutor v. Vasiljevic*, Judgment, Case No. IT-98-32-A, ICTY Appeals Chamber, 25 February 2004, para. 92 - 118, 162 - 169. **Authority 58.**

Special Court for Sierra Leone (SCSL)

65. *Prosecutor v. Brima, Kamara & Kanu*, Judgment, Case No. SCSL-04-16-T, SCSL Trial Chamber, 20 June 2007, para. 210 - 224. **Authority 59.**
66. *Prosecutor v. Fofana and Kondewa*, Judgment, Case No. SCSL-04-14-T, SCSL Trial Chamber, 2 August 2007, para. 211 - 220. **Authority 60.**

Commentary

67. Knut Dormann, with contributions from Louise Doswald-Beck and Robert Kolb, *Elements of War Crimes under the Rome Statute of the International Criminal Court*, 2003, p 16 - 17, 28 - 29. **Authority 61.**
68. Preparatory Commission for the International Criminal Court, PCNICC/2000/L.1/Rev/1/Add.2, (2000) Annex III, **Authority 62.**