



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 DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de réception):

26 / 08 / 2016

ម៉ោង (Time/Heure) : 15 : 30

សម្ភារៈ (Case File Officer/L'agent chargé)

SAM SADA

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

13 June 2016

Substantive Hearing on evidence - Day 417

Prepared by:

Ms. Sivhoang Chea and Ms. Evelyn Campos Sanchez

Attendance Record
Before: Judge NIL Nonn (President); Judge Jean-Marc LAVERGNE; Judge YA Sokhan; Judge Claudia FENZ; Judge YOU Ottara
Reserve Judges: Judge THOU Mony; Judge Martin KAROPKIN
Greffiers: Ms. Sivhoang Chea; Ms. Evelyn Campos Sanchez
OCP: Mr. Seng Leang; Mr. Dale Lysak; Mr. Vincent de Wilde d'Estmael; Ms. Song Chorvoin
Accused: Mr. NUON Chea (from the holding cell); Mr. KHIEU Samphan
Defence for the Accused Nuon Chea: Mr. Victor KOPPE; Mr. SON Arun; Mr. LIV Sovanna
Defence for the Accused KHIEU Samphan: Ms. Anta GUISSÉ
Appointed Standby Counsel for KHIEU Samphan: Ms. TOUCH Voleak; Mr. Calvin SAUNDERS
Civil Parties: Mr. PICH Ang; Ms. Marie GUIRAUD; Mr. VEN Pov; Mrs. SIN Soworn; Mr. HONG Kimsuon; Ms. Chitrangada SINGH; Mr. Sothearith SNGUON
Witness: Mr. Kaing Guek Eav alias Duch (2-TCW-916)
Others: Mr. UCH Arun (Court Officer); Ms. SOUR Sotheavy (Associate Court Officer); Mrs. SAM Makara (Transcriber); Ms. YUOS Sereiroth (Transcriber); Mr. VAT Somao (Transcriber); Ms. SREY Nak (Transcriber); Ms. SOUN Dararaeksmeay; Ms. Nathalie MARTIN (Trial Chamber Intern)

<u>General court times</u>		
Day	Start time: 08:59	Finish time: 16:06
Recess am	Start time: 10:09	Finish time: 10:29
Recess	Start time: 11:31	Finish time: 13:31
Recess pm	Start time: 14:37	Finish time: 14:59
	Total Court Time:	4 hr 25 min

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Opening of hearing and report on attendance of the parties	Trial Chamber, Greffier	08:59	9:01
NUON Chea request to follow the proceedings from the holding cell	NUON Chea Defence	9:01	9:03
Hearing of witness Kaing Guek Eav alias Duch (2-TCW-916)	Civil Parties Co-Prosecutors	9:03 11:24	11:23 16:06
Objection by KHIEU Samphan Defence to showing witness a document titled "Decision of the Central Committee-Standing Committee" he did not have prior knowledge of	KHIEU Samphan Defence	10:57	10:57
	Trial Chamber	10:57	10:58
	Lead Co-Lawyers for Civil Parties	10:58 10:59	10:59 10:59
	Trial Chamber	11:00	11:02
	KHIEU Samphan Defence	11:02	11:06
	Trial Chamber	11:06	11:07
Objection by KHIEU Samphan Defence to the inclusion of a statement from a S-21 confession	KHIEU Samphan Defence	13:55	13:55
	Co-Prosecutors	13:55	13:56
	KHIEU Samphan Defence	13:57	13:58
	Trial Chamber	13:58	13:59
	Co-Prosecutors	13:59	14:00
	KHIEU Samphan Defence	14:05	14:06
	NUON Chea Defence Trial Chamber	14:06 14:07	14:07 14:07

Summary of Proceedings

Opening of hearing and report on attendance of the Parties

The President opened the proceedings and the Greffier informed the Trial Chamber that all Parties were present except counsel Kong Sam Onn, the national counsel for KHIEU Samphan, who was absent for personal matters.

NUON Chea request to follow proceedings from the holding cell

The Trial Chamber granted NUON Chea's request to waive his right to be present in the courtroom and to follow the remainder of proceedings from the holding cell.

Hearing of witness Kaing Guek Eav alias Duch (2-TCW-916)

The Civil Party Lead Co-Lawyers and Co-Prosecutors questioned witness Kaing Guek Eav

alias Duch (2-TCW-916).

Objection by KHIEU Samphan Defence to showing witness a document titled "Decision of the Central Committee-Standing Committee" he did not have prior knowledge of

The KHIEU Samphan defence objected to a question which asked the witness to comment on a document titled "Decision of the Central Committee-Standing Committee" which he did not have knowledge of prior to the investigation for Case 001. They stated that the question was too broad and required the witness to speak as an expert about documents he had not seen which is inappropriate as he is not an expert witness. The Chamber made the oral decision that as the witness is not an expert, he is not in a position to give a general opinion on a document which he had not seen. However, the document may be used to establish knowledge the witness has regarding the manner in which S-21 was called upon to function. Therefore, he instructed that the question should be rephrased.

Objection by KHIEU Samphan Defence to the inclusion of a statement from a S-21 confession

The KHIEU Samphan defence objected to the content of a confession from S-21 being read out to the witness because the court has previously ruled against doing this as there is a real risk that these confessions were obtained under torture. The co-prosecutor argued that what he was reading was not technically a confession because its contents include a prisoner maintaining his innocence and therefore cannot be classed as a confession made under torture. The chamber rules that it has already found that there is a presumption that any S-21 confession is a result of torture.

Reclassified

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/1027 7	D14280	01017147- 01017151; / /	Name list of prisoners of woman Section	P	01017149	/	/
E3/2017	16.76	00021137- 00021137; 00183667- 00183672; /	S-21 list of enemy of Headquarters Office interrogated and whose documents are finished	P	00021137	00183670 - 00183672	/
E3/3187	D312.1.56	00008755- 00008903; 00874174- 00874599; /	Name list of prisoner killed in 1976	P	00008785 - 00008786	00874237 - 00874241	/

E3/8374	D175/6.18	00053001- 00053001; 00184021- 00184021; 00290165- 00290165	Measures to interrogate Pen San alias Ya in the past	P	00053001	00184021	00290165
E3/1041	D108/31.25	00052568- 00052568; 00178183- 00178183; 00283117- 00283117	Name list of the disease men	P	00052568	00178183	00283117
E3/8657	D175/3.25	00230007- 00230092; / /	S-21 Prisoner List entered in March 1977	P	00230070 - 00230071	/	/
E3/1050 6	D17040	01019293- 01019436; / /	Name list of prisoners entry from 17/2-17/4/77	P	01019379	/	/
E3/525	D288/4.30.1	00339783- 00339854; 00339593- 00339686; 00339687- 00339782	Transcript of Proceedings - "Duch" Trial - 10 June 2009	P	/	00339602 - 00339603	00339697
E3/5756	D86/12/1/8	00172306- 00172306; 00197743- 00197743; 00172335- 00172336	Duch's Note on Document ERN 000086819-000086821	P	00172306	00197743	00172335- 00172336

Other documents (No Change)

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E1/52.1	/	00355288- 00355357; 00355106- 00355192; 00355193- 00355287	Transcript of Proceedings - "Duch" Trial - 21 July 2009	P	/	00355188	00355282
E3/765	D248/4.10	00376472- 00376507; 00539976- 00540007; 00540008- 00540037	Revolutionary Youth Number 10 October 1978	P	00376493 - 00376494	00539994	00540024 - 00540025

E3/12	6.3	00000758- 00000764; 00182809- 00182814; 00224363- 00224367	Decision of central committee on a number of problems	P	00000758	00182809	00224363
E3/8368	14.2	00007445- 00007513; 00225379- 00225415; 00278744- 00278776	Statistique list of Santibal S- 21	P	00007470 - 00007471	00225395	00278759 - 00278760
E3/1757	D222/1.17	/; 00396894- 00397284; /	VICKERY Michael, Cambodia 1975-1982	P	/	00397090	/
E3/1705	5.35	00013991- 00014202; 00183281- 00183290; 00373117- 00373126	Ke Kim Huoth's confessions called Soth in Khmer dated February 21, 1977	P	00014091 - 00014096	00183285 - 00183290	00373117 - 00373120
E3/1891	5.89	00017526- 00017945; 00096817- 00096834; /	S-21 Confession of SBAUV Him alias Euan, Secretary of Division 310	P	00017901 - 00017903	00096819 - 00096820	/
E3/834	14.4	00077442- 00077660; 00184483- 00184529; /	Pon's uncatalogued 21- page document in DC-Cam's archive dated 7-12 December 1976	P	00077476	00184498	/
E3/1580	D86/21	00177577- 00177584; 00177585- 00177591; 00177592- 00177599	Written Record of Interview of Duch by CIJ on 28-03- 2008	P	00177580	00177587	00177594 - 00177595
E3/347	20.19	00160879- 00160884; 00184996- 00185058; 00160921- 00160974	UNHCHR Suspect Statement of KANG Keck Iev alias DUCH	P	00160890	00184998	00160922

Oral Orders/Decisions:

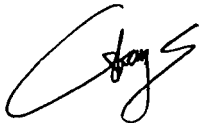
- Order authorising the Accused NUON Chea to follow the proceedings from the holding cell and instructing the AV Unit to connect the AV link to the proceedings (9:03)
- Decision to allow a document the witness had no contemporaneous knowledge of to be shown to him (11:07)
- Decision not to allow the use of statement from S-21 in the trial (14:07)

- Order to take the Accused to the Detention Facility and bring them back to the courtroom for the hearing on 05 May 2016 (16:01)

Order for Adjournment of Hearing
The hearing will resume on Thursday, 14 June 2016 at 9:00 a.m.

Phnom Penh, 13 June
2016

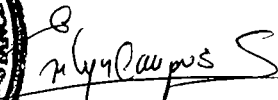
Greffier



Ms. Sivhoang CHEA



Greffier



Evelyn Campos Sanchez