

ឯកសារបញ្ជាក់ថាជាកម្រិតបញ្ជាក់ស្របតាមច្បាប់
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ថ្ងៃ ខែ ឆ្នាំ ចេញបញ្ជាក់ (Certified Date/Date de certification):
 15 / 09 / 2009

មន្ត្រីទទួលបន្ទុកសំណុំរឿង / Case File Officer/L'agent chargé
 du dossier: SA N N P A D A



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 reception):
 15 / 09 / 09

ម៉ោង (Time/Heure) : 09:00

មន្ត្រីទទួលបន្ទុកសំណុំរឿង / Case File Officer/L'agent chargé
 du dossier: *Chey*

WRITTEN RECORD OF PROCEEDINGS - "DUCH" TRIAL

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

6 July 2009

Substantive Hearing – Day 38

Prepared by: SE Kolvuthy and Natacha WEXELS-RISER

Attendance Record
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge THOU Mony.
Reserve Judges: Judge YOU Ottara (Reserve) and Judge Claudia FENZ (Reserve)
Greffier/s: Mr. Matteo Crippa, Mrs. Se Kolvuthy, Ms. Natacha Wexels-Riser, Mr. Lim Suy-Hong.
OCP: Mr. Robert Petit, Mr. Seng Bunkheang, Mr. Pich Sambath, Mr. Zachery Lampell, Mr. Pak Chanlino, Mrs. Chun Soleak, Mr. Jacopo Rossi.
Accused: Mr. Kaing Guek Eav alias Duch.
Defence for the Accused: Mr. Kar Savuth, Mr. François Roux (absent); Mrs. Marie Paule Canizares, Mrs. Héleyn Uñac, Mr. Chan Ravuth, Mr. Alexandre Prezanti.
Lawyers for the Civil Parties: Ms. Silke Studzinsky, Mr. Yung Phanit, Mrs. Martine Jacquin, Ms. Moch Sovannary, Ms. Ty Srinna, Mr. Alain Werner, Mr. Hong Kimsuon.
Courtroom Officer/CMS: Mr. Uch Arun;
Others: Mr. San Kiri, Mrs. Julie Massé, Mr. Scott Bywater.



General court times		
Day	Start time: 9:00	Finish time: 16:05
Recess am	Start time: 10:35	Finish time: 11:00
Recess	Start time: 12:10	Finish time: 13:30
Recess pm	Start time: 14:30	Finish time: 14:50
	Total Court Time:	5 hours

Proceedings			
Type of Issue	Raised By	Start time	Finish time
Information by Civil Parties	Civil party Group 1	9:03	9:06
Request by Civil Party Group 2 for additional time for testimony of E2/32	Civil party Group 2	9:06	9:08
Decision on removal of KW-24 from the witness list	Trial Chamber	9:12	9:17
Questioning of Civil Party Ly Hor (E2/61)	Trial Chamber	9:19	13:57
Questioning of Civil Party Ly Hor (E2/61)	Co-Prosecutors	13:58	14:00
Questioning of Civil Party Ly Hor (E2/61)	Civil Party Group 1 (14:01 to 14:30 and 14:52 to 14:54), Group 3 (14:55 to 14:59, Group 4 (14:59 to 15:01)	14:01	15:01
Questioning of Civil Party Ly Hor (E2/61)/ Observations by the Defence. Request that all documents concerning Civil Parties be transmitted in Khmer and French to the defence.	Defence (15:06 to 15:09 and 15:34 to 15:51)	15:06 15:34	15:09 15:51
Observations by the Accused	Accused	15:09	15:25
Discussion	Trial Chamber	15:52	16:01

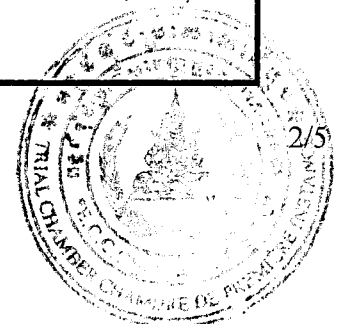
Summary of Proceedings:

Information by Civil Parties

Civil Party Group 1 withdrew its request that E2/43 be heard and indicated that 35 hours would now be needed to hear Civil Parties who are not survivors.

Request by Civil Party Group 2 for additional time

Civil Party Group 2 requested that Civil Party E2/32 be allocated an additional 0,5 day for her testimony.



Oral decision on removal of KW-24 from the witness list

The Chamber issued a decision removing KW-24 from the witness list (see below).

Questioning of Civil Party Ly Hor (E2/61)

The Defence expressed its doubts that Ly Hor was detained at S-21.

The Chamber questioned witness Ly Hor on the functioning of S-21 and S-24.

The Co-Prosecutors, Civil Party Groups 1 and 3 as well as the Defence questioned witness Ly Hor on the functioning of S-21. The Accused made some observations on the testimony.

Record of Rule 87.3 Proceedings				
TC Ref Number	OCIJ Ref Number	Name/Description	Class. (S, C or P)	Remarks
E2/61.1	NA	Annex 1: Claiming Letter by LY Hor	P	00280015-00280017, in particular 00280015
E2/61.2	NA	Annex 2: Biography of Ear Hor	P	00279915-00279930, in particular 00279927, 00279929 and 00279930, 00360995-00361007, 00361722-00361729
E3/390	D2-3	Written Record of Interview of CHHEANG Leang	P. Redacted	00145548-00145556, 00146771-00146773, 00147713-00147715 Redact personal information
E3/391	IS 4.20	The Khmer Rouge Division 703	P	00081277-00081488 00192933-00193063
E3/381	D57, Annex 3	Annex 3: Brief Story of people who set free (quoted as "The Prisoners Who Were Released In Division 703.")	P	00316312-00316318. Already in E3 folder.
E3/231	IS 14.3	S-21 Notebook by MAM Nai alias Chan	P	00077661-00078056, in particular 00077976, 00077978 and 00077979, 00184579-00184618, 00224410-0022441. Already in E3 folder
E5/2.8	NA	S-21 Confession of CHHEAV Sun Heng	P	00283986-00283986 00226555-00226580
E2/61	NA	Victim Information Form of LY Hor	P. Redacted	00279954-00279959 00360821-00360824 00362243-00362251 Redact p



				information
E2/61/1	NA	Report by Victims Unit on Civil Party Application of LY Hor	P. Redacted	00279934-00279935, 00369439-00369440. Redact personal information
E68.1	NA	Revised S-21 prisoner list	P	00329596-00330129, in particular 00329681. Already put before the Chamber.

Oral Orders/Decisions:

- Oral decision on removal of witness KW-24 from the witness list

The Chamber informed the parties and the public of its decision concerning witness KW-24.

Background:

On Monday 29 June, the Chamber informed the parties of its decision to remove several witnesses from the list of those to be heard in court. It then sought the views of the parties on its proposal to remove an additional witness, KW-24, from the list of witnesses to testify in person.

The Co-Prosecutors requested the opportunity to discuss this issue in closed session or to provide written comments. The Chamber allowed the Co-Prosecutors to make written submissions by Tuesday 30 June at 4.30 PM. The Civil parties made no comments. The Defence indicated that it had no objection to the proposal to remove this witness.

On 30 June 2009, the Co-Prosecutors filed a confidential written submission in support of the inclusion of witness KW-24's on the list of witnesses to testify in person. The Co-Prosecutors submitted that KW-24 possesses unique knowledge, insight and experience about the operation of Choeng Ek. The testimony of this witness would therefore be essential for ascertaining the truth about the crimes committed there, and cannot be replicated by another witness. They further argued that the additional time required to hear KW-24 does not outweigh the probative value of the testimony of this witness.

Reasoning:

The Chamber observes that KW-24's testimony would relate to facts to which other witnesses will testify. The Chamber therefore does not consider that KW-24's testimony would provide information which cannot be obtained in another way. The Chamber has weighed the interest of hearing this witness against the necessity to conduct a fair and expeditious trial, and finds that, considering the availability of alternative evidence, it is unnecessary to hear this witness in person. The Chamber notes that statements of this witness made during the investigating phase will be put before the Chamber in accordance with Rule 87.



Decision:

The Chamber therefore decides to remove KW-24 from the list of witnesses to be heard in court.


- Order to take the Accused to the Detention Facility and bring him back to court for the Hearing on 7 July 2009.

Orders for Adjournment of Hearing

Adjournment of Hearing: The hearing will resume on Tuesday, 7 July 2009 at 9:00.

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Phnom Penh,
6 July 2009

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Greffier SE Kolvuthy Greffier Natacha WEXELS-RISER