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ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de réception):
23 / 09 / 2009

ម៉ោង (Time/Heure): 9:00

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

E1/50

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

បញ្ជីបញ្ជាក់ថា ជាកម្រងច្បាប់
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អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de Première instance

ថ្ងៃ ខែ ឆ្នាំ ធ្វើការបញ្ជាក់ (Certified Date/Date de certification):
23 / 09 / 2009

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: SANN RADA

WRITTEN RECORD OF PROCEEDINGS - "DUCH" TRIAL

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

16 July 2009

Substantive Hearing – Day 45

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. Seng Bunkheang, Mr. William Smith, Mr. Zachery Lampell, Mr. Pak Chanlino, Mr. Christopher Hale, Mrs. Chun Soleak.

Accused: Mr. Kaing Guek Eav alias Duch.

Defence for the Accused: Mr. Kar Savuth, Mr. François Roux; Mrs. Marie Paule Canizares, Mrs. Héleyn Uñac, Mr. Chan Ravuth, Mr. Alexandre Prezanti.

Lawyers for the Civil Parties: Ms. Silke Studzinsky, Mrs. Martine Jacquin, Mr. Kim Mengkhy, Mr. Alain Werner, Ms. Ty Srinna, Mr. Hong Kimsuon.

Courtroom Officer/CMS: Mr. Uch Arun.

Others: Mrs. Maryvonne Maniacky, Mr. Pierre Cozette, Mrs. Julie Massé, Mr. San Kiri, Mr. Kong Sam Onn.



General court times		
Day	Start time: 9:00	Finish time: 16:25
Recess am	Start time: 10:35	Finish time: 10:50
Recess	Start time: 12:05	Finish time: 13:35
Recess pm	Start time: 14:45	Finish time: 15:00
	Total Court Time:	5 hours and 20 minutes

Proceedings			
Type of Issue	Raised By	Start time	Finish time
Issues relating to presence of lawyer for the witness and self-incrimination	Trial Chamber Witness Him Huy	9:05	9:10
Questioning of witness Him Huy (KW-09)	Trial Chamber	9:10	16:24
Decision on request for protective measures for witness KW-10	Trial Chamber	15:03	15:07
Questions to the Accused	Trial Chamber	15:40	15:46

Summary of Proceedings:
<p>Issues relating to presence of lawyer for the witness and self-incrimination Witness Him Huy indicated that he had consulted with his lawyer and requested his presence for the duration of his testimony.</p> <p>Questioning of Witness Him Huy (KW-09) by the Chamber The Chamber questioned witness Him Huy on the functioning of S-21.</p> <p>Decision on request for protective measures for witness KW-10 The Chamber issued a decision on the request for protective measures for KW-10 (see below).</p> <p>Questions to the Accused The Chamber questioned the Accused on issues relating to the testimony of Witness Him Huy.</p>

Record of Rule 87.3 Proceedings				
TC Ref Number	OCIJ Ref Number	Name/Description	Class. (S, C or P)	Remarks
E3/404	4.47	Book: "OUKOUBAH", By Ysa OSMAN	P	00078437-00078604, in particular 00078457
E3/405	IS 7.4	Prisoners' names smashed by brother Huy Sre	P	00242285-00242285 0000672



				00250912-00250912
E3/396	D54	Written Record of Confrontation	C	00166561-00166570, 00166588-00166599, 00166571-00166580. Already in E3 folder.
E3/406	D19/VI	Written Record of Interview Him Huy	P. Redacted	00161587-00161594, 00146635-00146642, 00148079-00148088, in particular 00148082. Referred to in court as document D49/6, but the quotation comes from Document D19/VI, which is therefore put before the Chamber under this rule. Redact personal information.

Oral Orders/Decisions:

Decision on request for protective measures for witness KW-10

On 3 April 2009, the Chamber deferred its ruling on the pending request for protective measures for proposed witness KW-10. The Chamber would like to inform the parties of its decision on this request.

The Chamber has reviewed the request in light of a strictly confidential risk assessment prepared by the Witness and Expert Support Section (WESU) with respect to witness KW-10. In this risk assessment, WESU noted that the role of this witness as an interrogator at S-21 is publically known through a variety of media related events. He is therefore well-known to the public. He could readily be identified even if protective measures, such as testifying in closed session, were adopted. Accordingly WESU did not recommend protective measures for this witness.

The Chamber observes that KW-10 has made his image widely known. He is so well-known that protective measures would be ineffective. In addition, his family and relatives, as well as a large part of his neighbours know of his background. The Chamber accordingly agrees with WESU's recommendation and decides not to grant protective measures to this witness.

DECISION

The Chamber accordingly **REJECTS** the request for protective measures for witness KW-10.

A decision on the remaining pending requests for protective measures for witnesses and Civil Parties will be issued in due course.



- Order to take the Accused to the Detention Facility and bring him back to court for the Hearing on 20 July 2009.

Orders for Adjournment of Hearing

Adjournment of Hearing: The hearing will resume on Monday, 20 July 2009 at 9:00. *SK*

NWR

Phnom Penh,
16 July 2009

SK
Greffier
SE Kolvuthy



N.W. Riser
Greffier
Natcha WEXELS-RISER