

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):
..... ២៩ / ០៧ / ២០០៩

ម៉ោង (Time/Heure):..... ០១ : ៣០

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

E1/63



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

WRITTEN RECORD OF PROCEEDINGS - "DUCH" TRIAL

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

17 August 2009

Substantive Hearing – Day 58

ឯកសារបានចម្លងត្រឹមត្រូវតាមច្បាប់ដើម
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME

ថ្ងៃ ខែ ឆ្នាំ ត្រឹមត្រូវបញ្ជាក់ (Certified Date/Date de certification)
..... 30 / 08 / 2009

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

Prepared by: SE Kolvuthy and Natacha WEXELS-RISER

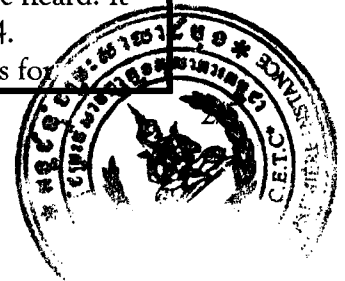
Attendance Record
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge THOU Mony.
Reserve Judges: Judge YOU Ottara (Reserve) and Judge Claudia FENZ (Reserve)
Greffier/s: Mrs. Se Kolvuthy, Ms. Natacha Wexels-Riser, Mr. Matteo Crippa, Mr. Duch Phary, Ms. Aline Briot.
OCP: Mr. Vincent De Wilde D'estmael, Mr. Seng Bunkheang, Mr. Pak Chanlino.
Accused: Mr. Kaing Guek Eav alias Duch.
Defence for the Accused: Mr. Kar Savuth, Mr. François Roux (absent), Mrs. Marie-Paule Canizarès, Mrs. Héleyn Uñac, Mr. Chan Ravuth, Ms. Lucile Nattiez.
Lawyers for the Civil Parties: Ms. Silke Studzinsky, Mrs. Fabienne Trusses-Naprous, Ms. Moch Sovannary, Mr. Alain Werner, Ms. Ty Srinna, Mr. Yung Phanit.
Courtroom Officer/CMS: Mr. Uch Arun.
Others: Mr. Scott Bywater, Ms. Pich Chariya, Mr. Pierre Cozette, Ms. Julie Massé.



General court times		
Day	Start time: 9:05	Finish time: 16:25
Recess am	Start time: 10:35	Finish time: 10:55
Recess	Start time: 12:10	Finish time: 13:35
Recess pm	Start time: 14:40	Finish time: 15:00
	Total Court Time:	5 hours and 15 minutes

Proceedings			
Type of Issue	Raised By	Start time	Finish time
Contestation of Civil Party applications	Defence at the request of the TC	9:07	9:24
Instructions concerning the hearing of Civil Parties	TC	9:24	9:28
Hearing of Civil Party Martine Lefevre (E2/85)	Trial Chamber Civil Party Group 3	9:40	11:27
Observations of the Accused on the testimony of Martine Lefevre (E2/85)	TC	11:29	11:31
Hearing of Civil Party Ouk Neary (E2/89)	Trial Chamber Civil Party Group 3	11:33 13:39	12:09 14:07
Observations of the Accused on the testimony of Ouk Neary (E2/89)	TC	14:07	14:10
Hearing of Civil Party Robert Hamill (E2/87) and questions to the Accused by the Civil Party	Trial Chamber Civil Party Group 1	14:12	16:15
Observations of the Accused	TC	16:17	16:21

Summary of Proceedings:
<p>Contestation of Civil Party applications by the Defence</p> <p>The Chamber referred to the list of Civil Party applications which was read out during the hearing of 10 August. It requested the Defence to indicate which applications it wanted to challenge, and in one or two sentences, the reasons for the challenge. The Defence will be provided with an opportunity to reason their challenge in more detail orally at the end of the hearing of the witnesses currently scheduled. The Civil Parties will be provided with an opportunity to respond orally.</p> <p>The Defence recalled its observations of last week concerning Civil Parties who will be heard. It withdrew its contestation of Civil Party application E2/50.</p> <p>The Defence also took note that E2/81 and E2/82 withdrew their request to be heard. It reiterated its doubts concerning these Civil Parties, as well as E2/77 and E2/34.</p> <p>With respect to those who will not be heard, the Defence indicated two reasons for</p>



contestation:

- No proof of family tie with the victim: E2/22, E2/37 and E2/66
- No proof of detention of the victim referred to in the application at S-21: E2/30, E2/35, E2/38, E2/41, E2/49, E2/57, E2/62, E2/63, E2/64, E2/65, E2/69, E2/70, E2/71, E2/73, E2/74, E2/75, E2/76, E2/81, E2/82, E2/83, D25/15, D25/20.

In addition, for some of these, there is no proof of family tie with the victims:

E2/30, E2/35, E2/38, E2/41, E2/57, E2/63, E2/64, E2/65, E2/69, E2/70, E2/71, E2/73, E2/74, E2/75, E2/76, E2/81, E2/82, E2/83, D25/15, D25/20.

Instructions concerning the hearing of Civil parties

The Chamber issued instructions concerning the hearing of Civil Parties (see below).

Hearing of Civil Party Martine Lefevre

The Chamber heard Civil Party Martine Lefevre.

The Accused acknowledged the biography of Ouk Khet.

Hearing of Civil Party Ouk Neary

The Chamber heard Civil Party Ouk Neary.

The Accused made some observations on the testimony.

Hearing of Civil Party Robert Hamill

The Chamber heard Civil Party Robert Hamill.

The Civil Party asked the Accused six questions.

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
E2/85.13 and E2/89.20	NA	Annex 20: List of Prisoners destroyed on 09 December 1977	P	00339169-00339169, 00328268-00328270, 00281230-00281230. Already put before the Chamber.
E5/13.1	NA	Photograph of Ouk Khet at S-21	P	00285014-00285014, 00285003-00285003
E3/400/9	D25/5/9	Annex 9 to Civil Party Petition of PHUNG Guth Sunthary: Biography of prisoner Phung Ton and List of Prisoners from the Ministry of Foreign Affairs	P	00188857-00188859, 00239013-00239016, 00188860-00188861. Already in E3 folder.
E68.1	NA	Revised Prisoner List (E68/1)	P	00329596-00329596, in part



				00330082. Already put before the Chamber.
E2/85	NA	Victim Information Form of LEFEUVRE Martine	P redacted	00281231-00281238, 00281239-00281242. Redact personal information.
E2/85.1 and E2/89.3	NA	Annex 1: Diplomatic Passport of LEFEUVRE Martine	C	00281222-00281223
E2/85.4 and E2/89.4	NA	Annex 4: Extrait de l'acte de Mariage de OUK Ket et LEFEUVRE Martine	C	00281224-00281224 (FR only)
E2/85.5 and E2/89.5	NA	Annexe 5: L'extrait de l'acte de naissance, premier enfant	C	00281253-00281253 (FR only)
E2/85.6	NA	Annex 6: Extrait de l'Acte de Ouk Neary	C	00281225-00281225 (FR only)
E2/85.8 and E2/89.13	NA	Annex 8: Diplôme d'Ingénieur	C	00281226-00281226 (FR only)
E2/85/6	NA	Passeport de Martine LEFEUVRE	C	00363527-00363527 (FR only)
E2/89.12	NA	Family photographs, Photograph of Ouk Khet at S-21	P	00281298-00281303, in particular 00281298 and 00281299
E2/87	NA	Victim Information Form of Robert Hamill	P redacted.	00281599-00281601. Redact personal information.
E2/87.7	NA	Annex 7: Confession of Kerry George Hamill	P	00007535-00007547
E2/87.14	NA	Annex 14: Birth Certificate of Robert Miles Hamill	C	00364931-00364931
E2/87.15	NA	Annex 15: Birth Certificate of Kerry George Hamill	C	00364932-00364932
E140.1	NA	Annex 1: Certification of S-21 Documents to Ms Ty Srinna	P	00362304-00362304
E2/87.16	NA	Annex 16: Copy of Particulars of Marriage of Rachel Kennedy Hamilton	C	00364933-00364933

Oral Orders/Decisions:

- Instructions concerning the hearing of Civil parties

The Chamber hereby recalls the right of the Chamber to lead the questioning of



appearing before it. In the Directions given by the Greffiers of the Trial Chamber on 5 August 2009 (Document number E115) the Chamber delegated the responsibility of leading the appearance/questioning of Civil Parties to the Civil Party lawyers.

The Chamber reminds that such responsibility includes the duty of the Civil Party lawyers to ask clear questions that are relevant to Case 001 and to guide the Civil Party should he/she make statements that are irrelevant to Case 001 or not confined to the description of the injury suffered by the Civil Party.

The Chamber recalls in particular paragraphs 9, 10 and 11 of the Direction that emphasize that Civil Parties' statements have to be clearly relevant to trial 001. Consequently the President expects each Civil Party lawyer to introduce his/her Civil Party with answers to these questions:

- "a) What is the name and brief identifying particulars of the Civil Party. This might be an ID, electoral card, etc;
- b) What is the relationship or connection to the person who has suffered harm at S21 (including S24). Does the CP have proof of a relationship? If so can it be put before the TC;
- c) Are there any relevant documents to confirm the presence of the person at S21 (biography, confession, entry in the prisoner lists, photograph etc) and the relevant ERN number.

10. The Civil Parties will be allowed to speak only on facts which are relevant to Case 001. It is the lawyers' responsibility to ensure that the statements of the Civil Parties are relevant to the case. The Civil Parties will be allowed to read a statement prepared beforehand.

11. The President does not wish to interrupt the statements of Civil Parties but in the interest of ensuring that all can be heard, he will do so, particularly if questions are not relevant or time is exceeded."

- Order to take the Accused to the Detention Facility and bring him back to court for the Hearing on 18 August 2009.

Orders for Adjournment of Hearing

The hearing will resume on Tuesday 18 August 2009 at 9:00. *8/11/09 MWR*

Phnom Penh,
17 August 2009

[Signature]
Greffier
SE Kolvuth



[Signature]
Greffier
cha WEXELS-RISER