



# Extraordinary Chambers in the Courts of Cambodia

## Case 001: Duch

October 2013

The ECCC has completed its mandate in Case 001 concerning the former chief of security prison S-21, Kaing Guek Eav, alias Duch. He was tried in 2009, convicted in 2010 of charges under international law, and received a life sentence in 2012. Duch remained at the ECCC detention center until his transfer to a state prison in Kandal in June 2013. Here's a summary of the proceedings against him before the ECCC.

### TIMELINE

18 July 2007	The Co-Prosecutors file their first <b>Introductory Submission</b> requesting the Co-Investigating Judges to investigate Nuon Chea, Ieng Sary, Ieng Thirith, Khieu Samphan and Kaing Guek Eav alias Duch.
31 July 2007	Duch is put into ECCC provisional detention after being transferred from Military Court custody on the previous day.
19 Sep 2007	The Co-Investigating Judges split the case into two, announcing that Duch will be prosecuted separately from the other four defendants. His case becomes known as Case 001.
8 Aug 2008	The Co-Investigating Judges issue a <b>Closing Order</b> , indicting Duch for crimes against humanity and grave breaches of the 1949 Geneva Conventions and sending him for trial.
5 Dec 2008	In response to an appeal by the Co-Prosecutors, the Pre-Trial Chamber amends the indictment, adding charges of Homicide and Torture pursuant to the 1956 Penal Code of Cambodia.
17-18 Feb 2009	The Trial Chamber holds the <b>initial hearing</b> in Case 001.
30 Mar 2009	The Trial Chamber begins hearing evidence in Case 001. The <b>hearing of evidence</b> lasts until 17 September 2009.
23-27 Nov 2009	The Trial Chamber hears <b>Closing Statements</b> in Case 001. The Defense asks for acquittal while the Prosecution requests 40 years imprisonment.
26 July 2010	The Trial Chamber hands down its <b>Judgment</b> .
16 Aug 2010	The Co-Prosecutors file a notice of appeal against the Trial Chamber's verdict. Defense also files a notice of appeal against the judgment on 24 August 2010.
28-30 Mar 2011	The Supreme Court Chamber holds the <b>appeal hearing</b> in Case 001.
3 Feb 2012	The Supreme Court Chamber pronounces its <b>Appeal Judgment</b> .
19 Mar 2012	Duch is called upon to testify as a witness in the first trial in Case 002 and provides testimony for the next 13 trial days.
6 June 2013	Upon the Co-Prosecutors' request, Duch is transferred to the Kandal Prison to serve the rest of his life sentence.

### WHO WAS THE DEFENDANT?



**Name:** Kaing Guek Eav, alias Duch

**Date & Place of Birth:** 17 November 1942, Kompong Thom

**Position in Democratic Kampuchea:** Deputy, then Chairman of S-21 (the security prison also known as Tuol Sleng)

**Date of ECCC 1st Detention Order:** 31 July 2007

Duch became a mathematics teacher in 1965 and joined the underground resistance in 1967. He became Chairman of Kampong Speu's security center M-13 in July 1971 and Deputy Chairman of S-21, a Phnom Penh security center, in 1975 where no fewer than 12,273 people were detained for torture and eventual execution during the Democratic Kampuchea regime. Duch returned to teaching in the early 1990s. After the death of his wife in 1995, he converted to Christianity and lived in Samlot until he was arrested by the Cambodian Military authorities in 1999.

### WHAT WAS CASE 001?

#### Trial Hearings

Duch was accused of crimes committed in S-21 and related sites during the Khmer Rouge regime. The Trial Chamber held the substantive hearings from 30 March 2009 to 27 November 2009, sat for 77 trial days in total, and heard 55 individuals including 17 fact witnesses, 9 experts, 7 character witnesses and 22 Civil Parties.

Duch's Defense asked for acquittal while the prosecution requested 40 years imprisonment.

#### Trial Judgment

On 26 July 2010, the Trial Chamber found Duch guilty of:

- Crimes against Humanity
- Grave Breaches of the Geneva Conventions of 1949

Duch was sentenced to 35 years imprisonment. This sentence was reduced by 5 years as a remedy for his illegal detention by the Cambodian Military Court between May 1999 and July 2007.

The Trial Chamber also admitted 66 Civil Parties among the 90 remaining Civil Party applicants in the proceedings and awarded them "moral and collective" reparations.

#### Appeal Hearings

The Supreme Court Chamber held the appeal hearing on 28-30 March 2011 and heard oral arguments of each party concerning four themes: Personal Jurisdiction; Crimes against humanity; Sentencing; and Civil Parties' appeals.

During the hearing, Duch and his defense team asked for his acquittal while the prosecutors demanded 45 years imprisonment. Lawyers for the 41 appealed Civil Parties also requested that the rejected applicants be admitted and more "meaningful" reparations awarded.

#### Appeal Judgment

On 3 February 2012, the Supreme Court Chamber affirmed Duch's conviction and sentenced him to life imprisonment. The Supreme Court Chamber also:

- Reversed the Trial Chamber's decision to grant a remedy for Duch's illegal detention by the Cambodian Military Court between 1999 and 2007;
- Entered separate convictions for the crimes against humanity of persecution, extermination (encompassing murder), enslavement, imprisonment, torture, and other inhumane acts, granting in part the Co-Prosecutors' appeal.

On civil claims, the Supreme Court Chamber:

- Upheld the Trial Chamber's order to post on the ECCC website all apologies and acknowledgements of responsibility made by Duch during the proceedings;
- Admitted 10 of the 22 Civil Party applicants who had been rejected by the Trial Chamber;
- Rejected all other claims for reparation.

### Completion of Mandate

Duch began serving his life sentence at the ECCC detention center after the 2012 appeal judgment until he was eventually transferred to the Kandal Prison on 6 June 2013. He is now solely under the care of the Cambodian government and will remain there for the rest of his life.