



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 ជាតិសាសនាព្រះមហាក្សត្រ
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):26.1.06.2012.....
ម៉ោង (Time/Heure) :11.00.....
មន្ត្រីទទួលបន្ទុកសំណុំរឿង /Case File Officer/L'agent chargé du dossier:.....S. ANN RADA.....

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

04 April 2012

Substantive Hearing on evidence – Day 47

Prepared by:
SE Kolvuthy and Roger PHILLIPS

Attendance Record
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge YOU Ottara.
Reserve Judges: Judge THOU Mony, Judge Claudia FENZ.
Greffiers: Ms. SE Kolvuthy, Mr. Roger PHILLIPS, Mr. DUCH Phary
OCP: Mr. William SMITH, Mr. Dale LYSAK, Mr. SENG Bunkheang, Mr. PICH Sambath
Accused: Mr. KHIEU Samphan, Mr. NUON Chea, Mr. IENG Sary.
Defence for the Accused: Mr. SON Arun, Mr. Michiel PESTMAN, Mr. Jasper PAUW, Mr. KONG Sam Onn, Mr. ANG Udom, Mr. Michael G. KARNAVAS.
Civil Parties: Mr. PICH Ang, Ms. Elisabeth SIMONNEAU-FORT, Ms. MOCH Sovannary, Mr. HONG Kimsuon, Mr. VEN Pov, Mr. Barnabé NEKUIE, Ms. CHET Vanly, Ms. Marie GUIRAUD.
Witness: KAING Guek Eav alias DUCH.
Others: Mr. PHALLA Prum, Mr. MOSSÉNY So, Mr. Philippe GOUT
General court times

Day	Start time: 09:05	Finish time: 16:05
Recess am	Start time: 10:40	Finish time: 11:00
Recess	Start time: 12:00	Finish time: 13:40
Recess pm	Start time: 14:50	Finish time: 15:10
	Total Court Time:	4 hours 40 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Clarification on right against self-incrimination for witness	Trial Chamber	09:05	09:10
NUON Chea's request to comment on the witness's testimony	Counsel for NUON Chea	09:10	09:20
Questioning of witness KAING Guek Eav	Counsel for NUON Chea	09:20	16:00
Discussion of documents not authenticated by the TC in Case 001	Trial Chamber	11:45	12:00
Waiver of the accused's right to be present in courtroom and to follow the proceeding from the holding cell	Counsel for IENG Sary	10:35	10:35
	Counsel for NUON Chea	12:00	12:00
Counsel for NUON Chea's request for additional time for questioning of witness	Counsel for NUON Chea	16:00	16:05

Summary of Proceedings

Clarification on right against self-incrimination for witness

The Trial Chamber recalls that pursuant to Internal Rule 28, a witness may object to making any statement that might tend to incriminate him or her. This right against self-incrimination extends to all facts which have not been finally adjudicated. In the case of the Witness presently testifying before the Chamber, he may object to answering any question relating to facts not adjudicated in Case 001 and which might tend to incriminate him irrespective of the likelihood of a future prosecution. The witness should state clearly if and when he wishes to exercise this right.

NUON Chea's request to comment on the witness's statement made the day before:

NUON Chea's Counsel stresses that his client won't be here in the afternoon and asks whether he could comment now. OCP and Civil Parties make submissions as to Accused's right to remain silent.

TC denies the Defence Counsel's request as not yet appropriate to be entered at this moment.

as RB

Counsel for NUON Chea's questioning of Duch:

NUON Chea's counsel asserts his right to question the credibility of the witness even if questions go outside the scope of the first trial. NUON Chea's Counsel submits that he can use any document to question the witness without referring to any specific list, including Case 001 documents (Transcripts).

TC states that Counsel has the right to test the credibility of witness. But document used must be in the case file and notified 24 hours in advance. The witness has a right not to incriminate himself and he has a right not to answer on facts which have not been yet adjudicated in a final decision. New documents are not allowed.

Request to waive Accused's presence in the courtroom

The Defence for Ieng Sary and Nuon Chea request to waive the Accused's presence in the courtroom. The Chamber grants their request.

Discussion on documents not authenticated by the TC in Case 001:

Concerning IS 20.19, TC stresses that the Court made no ruling on its authenticity in case 001. The witness must answer questions on this document, but may also give his view on the authenticity of the document.

Counsel for NUON Chea says it is to the parties not to the witness to challenge the authenticity of a document.

Counsel for NUON Chea's request for additional time for questioning of witness:

Counsel for NUON Chea requests an extra hour of time to question Duch. Request granted.

Record of Rule 87(3) Proceedings							
TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
E3/45	D95	00205146- 00205155 00205156- 00205163 00205164- 00205172	[លិខិតបញ្ជាក់ការជំនួសឯកសារ] កំណត់ហេតុនៃការសួរចម្លើយ ឌុច ថ្ងៃទី ១៥ កក្កដា ២០០៨ Written Record of Interview of Duch by CIJ on 15-07-2008 Procès verbal d'interrogatoire de Duch par CJI le 15-07-2008	P	00205150	00205159	00205167
E3/1558	D43/I V- Annex 63	00174501- 00174543 00224130- 00224130 00269783- 00269783	ឧបសម្ព័ន្ធចំណុះ ៥៧៥bbkkh សម្រង់ចម្លើយសារភាពរបស់ ម៉ែន ជុន ហៅ ហឺង Annex 63: 575bbkkh Colour copy Excerpt of Confession of Men Chun alias Hoeng Annex 63: 575bbkkh l'extrait en copie couleur de la confession de Men Chun alias Hoeng	P	00174502	00224130	00269783

E3/1559	D288/4.11.1	00320948-00321033-00316531-00316639-00316640-00316755	ប្រតិចារិតនៃដំណើរការនីតិវិធីជំនុំជម្រះករណី ឌុច - ០៩ មេសា ២០០៩ Transcript of Proceedings - "Duch" Trial - 09 April 2009 Transcript of Proceedings - "Duch" Trial - 09 April 2009	P	00321001	00316602	
E3/454	D86/6	00146657-00146667-00147600-00147608-00149920-00149931	កំណត់ហេតុនៃការសួរចម្លើយ ឌុច ចុះថ្ងៃទី ០២ ១០ ២០០៧ Written Record of Interview of Duch by CIJ on 02-10-2007 Procès verbal d'interrogatoire de Duch par CJI le 02-10-2007	P	00146663	00147605	p. 6
E3/1560	D288/6.52/4.25	00320786-00320789-00327325-00327327-00327328-00327331	ឧបសម្ព័ន្ធ ២៥៖ កំណត់ហេតុសួរចម្លើយ ថ្ងៃទី៩ ខែមិថុនា ឆ្នាំ១៩៩៩ Annex 25: Written Record of Interview - 09 June 1999 Annexe 25: Procès-verbal d'interrogatoire - 09 juin 1999	P	00320787	00377326	
E3/347	20.19	00160879-00160884, 00002494-00002557, 00160889-00160920-00184996-00185058, 00160885-00160888-00160921-00160974	បទសម្ភាសន៍តាមខ្សែអាត់ជាមួយ កាំង ហ្គីច អ៊ាវ ហៅ ឌុច អតីតប្រធានសន្តិសុខខ្មែរក្រហម ស-២១ UNHCHR Suspect Statement of KANG Keck Iev alias DUCH UNHCHR Suspect Statement of KANG Keck Iev alias DUCH	P	00160904	00185024	
E3/1537	D43/I V-Annex 75	00174754-00174760-00224639-00224639-00271459-00271459	ឧបសម្ព័ន្ធ ៧៥៖ ៦៤២bbkkh សម្រង់ចម្លើយសារភាពរបស់ ទីវ ម៉ី ហៅ សន្តិភាព Annex 75: 642bbkkh Colour copy Excerpt of Confession of Tiv Mei alias Santepheap Annexe 75: 642bbkkh l'extrait en copie couleur de la confession de Tiv Mei alias Santepheap	P	00174754		
E3/1546	D43/I V-Annex 26	00173049-00173056-00753705-00753710, 00224630-00224630-00757862-00757868, 00271450-00271451	ឧបសម្ព័ន្ធ ២៦: 319bbkkh សម្រង់ចម្លើយសារភាពរបស់ ម៉ុក សំអុល ហៅ ហុង Annex 26: 319bbkkh Colour copy Excerpt of Confession of Mok Sam-ol alias Hong [Partial T.] Annexe 26: Aveux de MOK Sam Ol alias HONG à S-21 (annotations des extraits de couleur) <i>af</i>	P	00173049		

E3/1561	D43/1 V- Annex 74	00174736- 00174753 00629418- 00629418 00280058- 00280058	ឧបសម្ព័ន្ធទី៤: 636bkkh សម្រង់ចម្លើយសារភាពរបស់ ឡុង មុយ ហៅ ជួន Annexe 74: 636bkkh l'extrait en copie couleur de la confession de Long Muy alias Chuon Annexe 74: 636bkkh l'extrait en copie couleur de la confession de Long Muy alias Chuon	P	00174736	00629418	00280058
E3/83	D225	00398154- 00398160 00398161- 00398167 00398168- 00398174	[លិខិតបញ្ជាក់ការជំនួសឯកសារ] កំណត់ហេតុនៃការសួរចម្លើយ ឌុច ចុះ ថ្ងៃទី ២០-១០-២០០៩ Written Record of Interview of Duch by CIJ on 20-10-2009 Procès verbal d'interrogatoire de Duch par CJI le 20-10-2009	P	00398157	00398164	00398171
E3/1562	D43/1 V- Annex 77	00174764- 00174774 00223909- 00223910 00280059- 00280060	ឧបសម្ព័ន្ធទី៧៖ 740bbkkh សម្រង់ចម្លើយសារភាពរបស់ ហ៊ឹប ស៊ិនហួង ហៅ ភាត Annex 77: 740bbkkh Colour copy Excerpt of Confession of Heap Sun Huong alias Pheat Annexe 77: 740bbkkh l'extrait en copie couleur de la confession de Heap Sun Huong alias Pheat	P	00174764	00223909	00280059
E3/1047	D108 /50/1 .5	00002455- 00002455 00548892- 00548892	លិខិតរបស់ ខៀវ ផ្លើឱ្យ ឌុច ស្តីពីការប្រើប្រាស់ក្រដាស Annex 5: Describing instructions from SON Sen alias Khieu to KAING Guek Eav alias Duch to save paper while recording confessions, to pay more attention to their contents, to make assessment of the values of the confessions	P			
E3/449	D86/ 11	00158835- 00158842 00159552- 00159559 00158843- 00158850	កំណត់ហេតុសួរចម្លើយ ឌុច ចុះថ្ងៃទី ២១ ០១ ២០០៨ Written Record of Interview of Duch by CIJ on 21-01-2008 Procès verbal d'interrogatoire de Duch par CJI le 21-01-2008	P	00158841	00159558	00158849

E3/1563	D43/1 V- Annex 96	00175121- 00175187 00224132- 00224135 00244529- 00244533	ឧបសម្ព័ន្ធទី៦: ៨៦៣bbkkh សម្រង់ចម្លើយសារភាពរបស់ ពេជ ជន ហៅ ម៉ែ ជូ Annex 96: 863bbkkh Colour copy Excerpt of Confession of Pech Phan alias Mey Phau Annexe 96: 863bbkkh l'extrait en copie couleur de la confession de Pech Phan alias Mey Phau	P	00175121	00224132	00244529
E3/1564	D238	00403873- 00403883 00403884- 00403893 00403894- 00403903	កំណត់ហេតុនៃការស្តាប់ចម្លើយ ឌុច ដោយសហចៅក្រមស៊ើបអង្កេត ចុះថ្ងៃទី 10-11-2009 Written Record of Interview of Duch by CIJ dated 10-11-2009 Procès verbal d'interrogatoire de Duch par CJI le 10-11-2009	P	00403877	00403888	00403898

Oral Orders/Decisions:

- Order to bring the Accused IENG Sary (10:35) and NUON Chea (12:00) to the holding cell (waivers of the Accused are attached to this written record).
- Order to return the Witness to the detention facility and to bring him to the courtroom for the hearing on 05 April 2012.
- Order to bring the three Accused to the detention facility and to return them to the courtroom for the hearing on 05 April 2012.

Orders for Adjournment of Hearing
The hearing will resume on 05 April 2012 at 9:00am. *RS - R*

Phnom Penh, 04 April 2012

Greffier  Greffier
SE Kolvuthy *Roger PHILLIPS*
SE Kolvuthy Roger PHILLIPS