



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): ០៤ / ០៧ / ២០១៦
ម៉ោង (Time/Heure):..... ១៤:៣០
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: Sann Rada

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

26/04/2016

Substantive Hearing on evidence - Day 403

Prepared by:

Ms. Sivhoang CHEA and Ms. Evelyn CAMPOS SANCHEZ

Attendance Record
Before: Judge NIL Nonn (President), Judge YA Sokhan, Judge YOU Ottara; Judge Jean-Marc LAVERGNE; Judge Claudia FENZ.
Reserve Judges: Judge Martin KAROPKIN (Reserve); Judge THOU Mony (Reserve)
Greffiers: Ms. Sivhoang CHEA; Ms. Evelyn CAMPOS SANCHEZ
OCP: Ms. SONG Chorvoin, Mr. Joseph Andrew BOYLE, Mr. Srea Rattanak
Accused: Mr. NUON Chea; Mr. KHIEU Samphan.
Defence for the Accused Nuon Chea: Mr. Victor KOPPE; Ms. Doreen CHEN; Mr. LIV Sovanna
Defence for the Accused Khieu Samphan: Ms. Anta GUISSÉ; Mr. KONG Sam Onn
Standby Counsel for the Accused Khieu Samphan: Ms. TOUCH Voleak; Mr. Calvin SAUNDERS
Civil Parties: Mr. PICH Ang; Ms. Marie GUIRAUD; Mr. LOR Chunthy; Mr. HONG Kimsuon; Mrs. SIN Soworn; Ms. TY Srinna.
Witness: Mr. LACH Mean (2-TCW-898) with Duty Counsel Mr. DUCH Phary
Others: Mr. UCH Arun (Court Officer), Ms. SOUR Sotheavy (Associate Court Officer), Mr. VAT Somoa (Transcriber), Ms. SOK Sopheakmonica (Transcriber), Ms. YOUS Sereiroth (Transcriber); Mr. NOU Monoroath (Transcriber), Ms. Alexandra BARRY (Intern), Ms. DARARAESMEY Soun (Intern)

<u>General court times</u>		
Day	Start time: 9:01	Finish time: 16:05
Recess am	Start time: 10:20	Finish time: 10:43
Recess	Start time: 11:30	Finish time: 13:31
Recess pm	Start time: 14:37	Finish time: 14:59
		Total Court Time: 4h18m

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Opening of Substantial Hearing and report on attendance of the Parties	Trial Chamber, Greffier	9:02	9:02
NUON Chea Defence request leave for NUON Chea to give a statement	NUON Chea Defence	9:06	09:22
Hearing of witness LACH Mean (2-TCW-898)	Co-Prosecutors Lead Co-Lawyers Trial Chamber Nuon Chea Defence	09:22 10:00 10:56 11:10	10:00 10:56 11:08 16:03
Request by OCP to admit documents E319/46.3.1 and E319/46.3.2	OCP	13:31	13:33
Oral decision on the non-use of Document E3/527 on the basis that it may have been obtained through S-21 confessions	NUON Chea Defence; Trial Chamber	15:09	15:19
OCP objections regarding the use of information contained in document E3/7535 which may have been obtained through torture	OCP	15:28	15:33

<u>Summary of Proceedings</u>
<p><u>Opening of hearing and report on attendance of the Parties</u></p> <p>The President opened the proceedings and the Greffier informed the Trial Chamber that all Parties were present, with the Accused NUON Chea and KHIEU Samphan present in the court room.</p> <p><u>NUON Chea Defence request leave for NUON Chea to give a statement</u></p> <p>NUON Chea is present in the court room despite a waiver being received by the Trial Chamber in the morning. The President sought clarification from Counsel KOPPE</p>

regarding NUON Chea's intentions to be present in the court room from now on and on the content of the statement prior to making a decision.

Counsel KOPPE informed the Trial Chamber that NUON Chea's statement had no direct relevance to the present witnesses' testimony but to the current trial segment. NUON Chea also does not wish to answer questions by the parties or by the Trial Chamber.

The Trial Chamber granted NUON Chea his request to read a statement in court at the conclusion of Mr LACH Mean's testimony.

Hearing of Witness LACH Mean (2-TCW-898)

Counsel for NUON Chea Defence, the Co-Prosecutor and Civil Parties posed questions to witness LACH Mean (2-TCW-898)

Request by OCP to admit documents E319/46.3.1 and E319/46.3.2

The Trial Chamber is seized of a request by the OCP to admit two further documents, E319/46.3.1 and E319/46.3.2 which contain previous WRIs of two witnesses, 2-TCW-931 and 2-TCW-816. Witness 2-TCW-931 is scheduled to give testimony tomorrow and witness 2TCW-816 is scheduled to give testimony next week.

Counsel for KHIEU Samphan and NUON Chea have no objection to the request.

Due to the urgent nature of the request, the Trial Chamber granted the OCP their request. A reasoned decision will be issued in due course.

Oral decision on the non-use of Document E3/527 on the basis that it may have been obtained through S-21 confessions

The Trial Chamber held that Document E3/527 is not allowed to be used at present as prima facie there is a possibility that it is a result of a summary of confessions of S-21 prisoners. To confront this witness with substantive elements of the document is not possible. Duch will be asked about the methods he used to draw up the documents, and those answers will determine whether that document can be used.

OCP objections regarding the use of information contained in document E3/7535 which may have been obtained through torture

The OCP objected to a question posed to the witness regarding plans for a coup d'etat, as the witness stated he had been informed of the plots via the confessions of S-21 prisoners. The OCP argued that there was a presumption that information obtained by an interrogator was the result of torture.

The Trial Chamber held that the objections made to the use of information in document E3/7535 by the OCP were correct on legal grounds.

New E3s

E3#	TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/10571	E319/46.3.1		01065147-01065159, 01079264-01079275	Written Record of Interview of 2-TCW-816	C	/	/	/
E3/10572	E319/46.3.2		01202833-01202842, 01219843-01219850	Written Record of Interview of 2-TCW-931	C	/	/	/

Reclassified

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/7641		00162771-00162781, 00363550-00363562, 00363672-00363686	Written Record of Interview of LACH Mean	P	00162779 00162773 00162777 00162772	00363552 00363558 00363560 00363557 00363559	00363683 00363674 00363681 00363680 00363684
E3/7660		00057053-00057078, 00335276-00335296, 00337992-00338015	Annex 6: Interview with LACH Mean	P	00577072 00057066 00057067	00335287 00335291 00335292	00338005 00338010
E3/9431		00181395-00181448, 00198028-00198081, 00181449-00181502	Annex 1: Report of Crime Scene Re-enactment at TUOL SLENG on 27 February 2008	P	/	00198072 00198066 00198081	/
E3/844		00040218 00342738 00716260	Name list of prisoners taken from North West Zone, industry office and social work office	P	00040218	00342738	00716260
E3/2817		00370271-00370539, 00369932-	Book by DUNLOP Nic entitled "The Lost Executioner"	P	00370297	00445712	00758326

		00370270, 00758326- 00758326					
E3/8386		00002637- 00002640, 00521631- 00521634, 00532733- 00532736	S-21 (K-8): Circulations	P	00002637	00521631	00532732
E3/7540		00055071- 00055087, 00337707- 00337720, 00364268- 00364284	Interview of DC-Cam with San alias THACH Siek	P	0055079	00337712	00364274
E3/7535		00087800- 00087845, 00324155- 00324190, 00324191- 00324234	DC-Cam Statement of SUOY Sav	P	00087817	00324168	00324206
E3/7327		01113795- 01113796, 00015679- 00015680	Attachment 11: Greetings to our Party Victories in the Leadership of the Kampuchean Workers Party on June 3 rd 1978	P	01113795	/	/
E3/2117		00192933- 00193063 00081277- 00081488, 00762103- 00762110	Book concerning the history of Khmer rouge Div703, a military unit comprised of soldiers from Sector25 who were considered to be among the elite forces of the DK military	P	00193010	00081403	/
E3/2089		00040092- 00040093, 00244255- 00244255	S21 Prisoners List: Names of Prisoners of social affairs	P	00040092	00244255	/

Other documents (No Change)

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/7468		00360437- 00360537, 00360157- 00360289, 00360290- 00360436	Transcript of Trial Proceedings - Kaing Guek Eav "Duch	P	/	/	00360333

E3/1544	00053000- 00053000, 00184020- 00184020, 00290166- 00290166	Interrogating measure that Pen San call Ya given the trusth on 26/9/76	P	00053000	00184020	00290166
E3/1047	00002455- 00002455, 00548892- 00548892, 00802230- 00802230	Describing instructions from SON Sen alias Khieu to KAING Guc eav to save paper while recording confessions, to pay more attention to their content, to make assessment of their value		00002455	00548892	00802230
E3/7467	00358954- 00359038, 00358849- 00358953, 00359187- 00359300	Transcript of Proceedings - "Duch" Trial 03 August 2009	P	/	/	/
E3/527	00285361- 00285393, 00069031- 00069057, 00314947- 00314973	The Last Joint Plan	P	00285361	00069031	00314947
E3/807	00052304- 00052311, 00933833- 00933845, 00323922- 00323929	Meeting report of Secretary-Undersecretary division and regiment	P	00052306	00933839	00323925
E3/1570	00154220- 00154233, 00154189- 00154203, 00154204- 00154219	Written Record of Interview of Duch by OCIJ on 29-11-2007	P	/	00154198 00154199	/

Oral Orders/Decisions:

- Decision to allow NUON Chea to remain present until such time as he wants to return to holding cell downstairs. (09:25)
- The Trial Chamber granted NUON Chea the opportunity to address the Trial Chamber at the beginning of tomorrow's hearing. The Chamber authorizes the Accused to return to the holding cell and follow the proceedings from there and instructs the AV Unit to connect the AV link to the proceeding. (11:09)
- Decision to admit documents E319/46.3.1 and E319/46.3.2 into evidence in case 002/02 (13:33)

- Oral ruling on the non-use of Document E3/527 handed down by Judge Lavergne. The use of the Document E3/527 was not allowed at present for there is a possibility that it is a result of a summary of confessions of S-21 prisoners obtained by torture and maltreatment. Duch will be asked about the contents of the document when he gives testimony, and those answers will determine whether the use of document is allowed. (15:18)
- Oral ruling on the OCP objections regarding the use of information contained in document E3/7535 which may have been obtained through torture. (15:33)
- Order to take the Accused to the Detention Facility and bring him back to court for the Hearing on 27 April 2016 (16:05).

Order for Adjournment of Hearing

The hearing will resume on Wednesday 27 April 2016 at 9:00am.

Phnom Penh, 26 April 2016)

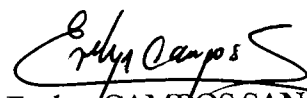
Greffier



Ms. CHEA Sivhoang



Greffier



Ms. Evelyn/CAMPOS SANCHEZ