



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ឯកសារដើម	
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL	
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): ១៩ / ០៩ / ២០១៦
ម៉ោង (Time/Heures): 14:30
អគ្គិសនីបន្តករឯកសារ/Case File Officer/Agent chargé du dossier: SANN RADA

E1/444

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

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

27 June 2016

Substantive Hearing on Evidence 002/02 – Day 425

Prepared by:

Sivhoang CHEA and Evelyn CAMPOS SANCHEZ

<u>Attendance Record</u>
Before: Judge NIL Nonn (President), Judge YA Sokhan, Judge YOU Ottara, Judge Jean-Marc LAVERGNE, Judge Martin KAROPKIN
Reserve Judges: -
Greffiers: Ms. Sivhoang CHEA; Ms. Evelyn CAMPOS SANCHEZ
OCP: Mr. Nicholas KOUMJIAN; Mr. William SMITH; Mr. SENG Leang
Accused: Mr. NUON Chea (from the holding cell); Mr. KHIEU Samphan.
Defence for the Accused Nuon Chea: Mr. SON Arun; Mr. Victor KOPPE; Mr. Liv SOVANNA; Mrs. Doreen CHEN; Mr. PRUM Phalla
Defence for the Accused Khieu Samphan: Ms. Anta GUISSÉ; Mr. KONG Sam Onn
Standby Counsel for the Accused Khieu Samphan: Mrs. TOUCH Voleak; Mr. Calvin SAUNDERS
Civil Parties: Mr. PICH Ang; Ms. Marie GUIRAUD; Mr. VEN Pov; Mrs. TY Srinna, Mr. LOR Chunthy; Mrs. SIN Soworn
Witness: Mr. KAING Guek Eav <i>alias</i> DUCH (2-TCW-916)
Others: Mr. UCH Arun (Court Officer); Mrs. SOUR Sotheavy (Associate Court Officer), Mr. LAY Nara (Transcriber); Ms. SOUN Dararaeksmey; Hannah KIM (Trial Chamber Intern).

<u>General court times</u>		
Day	Start time: 9:03	Finish time: 10:47
	Total Court Time:	1 hr 44 min

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Opening of hearing and report on attendance of the Parties	Trial Chamber, Greffier	9:03	9:06
NUON Chea Defence request to follow the proceedings from the holding cell	NUON Chea Defence	9:06	9:08
Hearing of witness Mr. KAING Guek Eav alias DUCH (2-TCW-916)	Trial Chamber NUON Chea Defence	9:08	10:12
Oral submissions on KHIEU Samphan Defence request (E420)	Trial Chamber	10:12	10:15
	KHIEU Samphan Defence	10:15	10:27
		10:36	10:40
	NUON Chea Defence	10:27	10:31
	Co-Prosecutor	10:31	10:33
	Lead Co-Lawyer	10:33	10:36

<u>Summary of Proceedings</u>
<p><u>Opening of hearing and report on attendance of the Parties</u> The President opened the proceedings and the Greffier informed the Trial Chamber that all Parties were present, with the exception of Judge Fenz and Judge Sokhan. NUON Chea present in the holding cell.</p> <p><u>NUON Chea Defence request to follow the proceedings from the holding cell</u> The Trial Chamber granted NUON Chea's request to waive his right to be present in the courtroom and to follow the proceedings from the holding cell.</p> <p><u>Hearing of witness Mr. KAING Guek Eav alias DUCH (2-TCW-916)</u> The NUON Chea Defence posed questions to Mr. KANG Guek Eav alias DUCH (2-TCW-916).</p> <p><u>Oral submissions on KHIEU Samphan Defence request (E420)</u> The Trial Chamber heard oral responses by the Parties to the KHIEU Samphan Defence's request (E420) for the Chamber to clarify the scope of the internal purges trial segment, as well as for the Chamber to reconsider hearing certain witnesses in this segment. KHIEU Samphan Defence reminded the Parties that the request was a motion for clarification, pursuant to Internal Rule 98(2), on the jurisdiction of the Chamber regarding internal purges. The Defence questioned the reasoning of the Chamber to hear witness 2-TCW-1005, considering the witness was scheduled to testify on the purges in Kratie. The Defence submitted that purges are not crimes as such, but a term used by the Co-Investigating Judge in the Closing Order. It was submitted</p>

that the Chamber's jurisdiction on purges should not go beyond what is established in the introductory submissions and Closing Order: events in the North Zone in 1976 and East Zone in 1978. Based on the Chamber's Severance Decision of May 2014, they are also related to certain crime sites such as Tram Kok cooperative and S-21. The Defence also expressed its concern on the Chamber's decision to hear witnesses on purges identified in Case 003 and 004 investigations. In doing so, the Chamber was extending its jurisdiction in a de facto manner beyond the Closing Order, which forms the Chamber's jurisdiction.

The KHIEU Samphan Defence also questioned to what extent the Chamber would be using evidence on internal purges if it were not within the scope of the trial. Introducing facts that are not part of the Closing Order or Severance Decision, but relate to the role of the Accused and JCE, would contravene Rule 98(2).

The NUON Chea Defence agreed with most of the KHIEU Samphan Defence's submissions, but did not oppose the appearance of witnesses for internal purges sent to S-21, as evidence related to this is very material to their case. The Defence also agreed that "purges" are not crimes as such but a means to categorize events.

The Co-Prosecutor submitted that purges, though not a crime in itself, was part of the policy which led to crimes at sites such as S-21, and is thus relevant to this trial. It is also relevant to KHIEU Samphan's criminal responsibility, as well as the CPK's policy of targeting enemies.

The Lead Co-Lawyer identified their understanding of the Chamber's jurisdiction regarding internal purges. It was argued that the Chamber is limited to the crimes perpetrated in Phnom Kraol, Au Kanseng and S-21 security centres, and the policy of purging existed in the North and East Zones only. It was also identified that the evidence would be relevant to role of the Accused and joint criminal enterprise.

After the oral submissions, the Trial Chamber notified the Parties that the scheduled Civil Party, 2-TCCP-236, would be heard the following day as the Chamber required time to deliberate on the request.

Reclassified

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/7633	D108/27.9	00052417- 00052440; 00863749- 00863766; 00333264- 00333277	Annex 9: Interview with Huy Pan	P	00052430 00052433 00052434	00863759 00863761	-

E3/10090	-	01159537- 01159557; - -	Name list of prisoners had the document	P	-	-	-
----------	---	----------------------------------	---	---	---	---	---

Other documents (No Change)

TC No	OCIJ No	ERN (KH, ENG, FR)	Title	Class	Note in Khmer	Note in English	Note in French
E3/2133	D312.1.45	00006728- 00006728; 00242285- 00242285; 00250912- 00250912	The list of prisoner has been killed in brother Huy Sre's section	P	00006728	00242285	0025091
E3/1578	D86/20	00178019- 00178030; 00194545- 00194555; 00178031- 00178044	Written Record of Interview of Duch by CIJ on 27-03-2008	P	00178027	00194552	00178040
E3/455	D86/7	00146668- 00146679; 00149907- 00149919; 00149932- 00149945	Written Record of Interview of Duch by CIJ on 03-10-2007	P	00146674	00149913	00149938
E3/448	D86/10	00154923- 00154929; 00154906- 00154913; 00154914- 00154922	Written Record of Interview of Duch by CIJ on 04-12-2007	P	00154928 00154929	00184912	00154921 00154922
E3/226	-	00017147- 00017160; 00183363- 00183373; 00296158- 00296167	Minute of the meeting on social affairs and health on 10/6/76	P	00171458	00183372	00296166

E3/454	D86/6	00146657- 00146667; 00147600- 00147608; 00149920- 00149931	Written Record of Interview of Duch by CIJ on 02-10-2007	P	00146661	00147603	00149924
E3/449	D86/11	00158835- 00158842; 00159552- 00159559; 00158843- 00158850	Written Record of Interview of Duch by CIJ on 21-01-2008	P	00158840	00159557	00158848
E3/357	D120	00242917- 00242927; 00242928- 00242938; 00242939- 00242948	Written Record of Interview of Duch by CIJ on 27-11-2008	P	00242925	00242936	00242947
E3/82	D226	00398175- 00398181; 00398182- 00398188; 00398189- 00398194	Written Record of Confrontation with Duch on 20-10-2009	P	00398179	00398188	00398193

Oral Orders/Decisions:

- Order authorizing the Accused NUON Chea to follow the proceedings from the holding cell and instructing the AV Unit to connect the AV link to the proceedings (9:03).
- Order instructing the security personnel to bring the Accused back to the detention facility and to return them to the courtroom for the hearing on Tuesday, 28 June 2016 (10:47).

Order for Adjournment of Hearing

The hearing will resume on Tuesday, 28 June 2016 at 9:00 a.m.

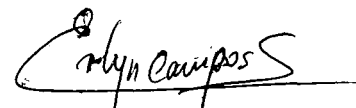
Phnom Penh, 27 June 2016

Greffier

Greffier



Sivhoang CHEA

Evelyn CAMPOS SANCHEZ