

### អត្ថខិស៊ី៩ម្រះទិសាមញ្ញតូខតុលាការកម្ពុសា

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

## ព្រះរាស់ឈាចគ្រង់តំ ស ជាតិ សាសលា ក្រះមហាគុក្រុត

Kingdom of Cambodia Nation Religion King Royaume du Cambodge Nation Religion Roi

### អត្ថបិនុំបំទ្រុះសាលាដំបូច

Trial Chamber Chambre de Première instance

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WRITTEN RECORD OF PROCEEDINGS - "

**PUBLIC** 

Case File No 001/18-07-2007-ECC@

27 April 2009 Substantive Hearing - Day 12

Prepared by: SE Kolvuthy and Natacha WEXILS-RISER 301.04.12009

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<del>ช **เชีย** จังเปล**ทน์เก**็นที่ II/Casa File Officent laga</del>nt chargé

#### Attendance Record

Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge THOU Monv.

Reserve Judges: Judge YOU Ottara (Reserve) and Judge Claudia FENZ (Reserve)

Greffier/s: Mr. Matteo Crippa, Ms. Natacha Wexels-Riser, Mr. Duch Phary, Mrs. Se Kolvuthy.

OCP: Mr. Tan Senarong, Mr. Alexander Bates, Mr. Pich Sambath, Mr. Stuart Ford, Mr. Pak Chanlino.

Accused: Mr. Kaing Guek Eav alias Duch.

Defence for the Accused: Mr. Kar Savuth, Mr. François Roux, Mrs. Héleyn Uñac, Mr. Chan Ravuth, Ms. Virginie Charpentier.

Lawyers for the Civil Parties: Mr. Yung Phanit, Ms. Silke Studzinsky, Mr. Kong Pisey, Mr. Hong Kimsuon, Mr. Kim Mengkhy, Mr. Philippe Canonne, Ms. TY Srinna, Mr. Alain Werner.

Courtroom Officer/CMS: Keoratanak Kauv

Others: Mrs. Julie Massé, Mr. Lay Nara, Mr. Khem Lindarita, Mr. Pierre Cozette.

#### General court times

ដូវដាំពិលេខ ៤ សង្កាត់ ចោមចៅ ខ័ណ្ឌ ដង្កោ ក្រុងភ្នំពេញ កម្ពុជា ប្រអប់សំបុត្រ ៧១ ទូរស័ព្ទ: (៨៥៥) -២៣-២១៩-៨១៤ ទូរសារ: (៨៥៥) -២៣-២១៩-៨៤១ ពេល National Road 4 , Chaom Chau , Dangkao Phnom Penh Mail Po Box 71, Phnom Penh Tel:+855(0)23 218914 Fax:0 www.eccc.gov.kh



E1/16

Day	Start time: 09:00	Finish time: 16:25
Recess am	Start time: 10:30	Finish time: 11:05
Recess	Start time: 12:05	Finish time: 13:40
Recess pm	Start time: 15:00	Finish time: 15:25
	Total Court Time:	4 hours and 50 minutes

Proceedings			
Type of Issue	Raised By	Start time	Finish time
Rule 92 Submissions Filed by	Defence, Co-Prosecutors,	09:05	9:30
the Co-Prosecutors	CP1, 2, 3 and 4		
Parties' right to discuss with	CP1 and the Defence	9:30	9:45
the Accused outside of the			
hearing			
Questioning of the Accused on	TC	9:45	10:30
the Issue of Establishment of			
S-21 and the Ta Kmao Prison			
Decision on requests raised	TC	11:05	11:20
during the morning			
Questioning of the Accused on	TC	11:20	16:25
the Issue of Establishment of			
S-21 and the Ta Kmao Prison			
Request for extension of	CP2	15:25	15:30
deadline			

#### **Summary of Proceedings:**

#### Rule 92 Submissions Filed by the Co-Prosecutors

The Defence objected to the selection of the materials filed on 23 April 2009 by the Co-Prosecutors.

The Co-Prosecutors clarified that the filing was done at the request of the Chamber to give advance notice of documents on which it wished to rely and to assist the Chamber. The Co-Prosecutors requested clarification on how to present documents on which it wishes to rely.

Civil Party Groups 1, 2 and 4 supported the arguments of the Co-Prosecutors.

The Defence responded that it was premature for the Co-Prosecutors to file this selection of documents, because it was the role of the Chamber to do so first.

The Chamber decided that the parties have the right to compile documents and photographs, and to circulate them to the Chamber and the parties. In order to facilitate the proceedings, it would be helpful if parties who wish to put documents before the TC advise the Greffiers. The parties should not make any comments or analyses on these compilations of documents.

#### Additional request raised by Civil Party Group 1

Civil Party Group 1 referred to Rule 90(1) and requested that during the time of questioning of the Accused, no party, including the Defence, discuss with him about answers given during the hearing.

The Defence recalled that the Accused does not take an oath, and the Defence may communicate freely with the Accused on any issues, including what is said during the hearing.

The Chamber informed the parties that it would decide on this issue at a later stage.

## Questioning of the Accused on the Issue of Establishment of S-21 and the Ta Kmao Prison

The Chamber continued the questioning of the Accused on issues relating the establishment of S-21 and the Ta Kmao prison.

The Chamber referred to Document D30.

The Accused referred to Documents D32/IV-Annex 24, D93/III, D32/IV-Annex 18, D32/IV-Annex 41, and D32/IV-Annex 9.

# Request for extension of deadline by Civil Party Group 2 to submit response to request by Civil Party Group 1

Civil Party Group 2 requested an extension of time to file its response to Group 1's request that Civil Parties indicate their group number on the cover page of their submissions.

The Chamber requested Civil Party Group 2 to make its submission orally, and not to proceed with the written response.

Civil Party Group 2 argued against references to the group number on the front page. Civil Party Group 4 agreed with Group 2's submissions.

The Chamber indicated that it would issue a decision at a later stage.

Record of Rule 87.3 Proceedings				
Reference	Name/Description	Other		
Number				
E3/17	Written Record of Interview of Duch	D30		
	by CIJ on 29-11-2007			
E3/18	Annex 24: 316bbkkh Colour copy	D32/IV-Annex 24		
	Excerpt of Confession of Yi Luy			
E3/19	DUCH' answer to questions of Civil	D93/III		
	Parties Phung Sunthary and Chum			
	Sirath			
E3/20	Annex 18: 181bbkkh Colour copy	D32/IV-Annex 18		
	Excerpt of Confession of Heng Pech			
	alias Chhan			
E3/21	Annex 41: 412bbkkh Colour copy	D32/IV- Annex 41		
	Excerpt of Confession of Meak Touch			
	alias Kem			
E3/22	Annex 09: 104bbkkh Colour copy	D32/IV-Annex 9		
	Excerpt of Confession of Mom Voeun			
	alias Mony	THE TABLE STATE OF THE PARTY OF		
E3/23	Written Record of Interview of Duch	D11		
	by CIJ on 07-08-2007	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		

Oral Orders/Decisions:

001/18-07-2007-ECCC/TC

E1/16

- 1. The Chamber decided that the parties have the right to compile documents and photographs, and to circulate them to the Chamber and the parties. In order to facilitate the proceedings, it would be helpful if parties who wish to put documents before the TC advise the Greffiers. The parties should not make any comments or analyses on these compilations of documents.
- 2 Order to take the Accused to the Detention Facility and bring him back to court on 28 April 2009.

#### Orders for Adjournment of Hearing

Adjournment of Hearing: The hearing will resume on Tuesday, 28 April 2009 at 9:00.

Phnom Penh, 28 April 2009

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