



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia
Nation Religion King

Royaume du Cambodge
Nation Religion Roi

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):
07. APR. 2009

ម៉ោង (Time/Heure): 14:00

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: CA. Fuy

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de Première instance

WRITTEN RECORD OF PROCEEDINGS - "DUCH" TRIAL

Case File N° 001/18-07-2007-ECCC/TC

31 March 2009

Substantive Hearing - Day 2

PUBLIC

Prepared by: Matteo Crippa and SE Kol Vuthy

ឯកសារច្បាប់ចម្លងត្រឹមត្រូវតាមច្បាប់
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME

ថ្ងៃ ខែ ឆ្នាំ ត្រឹមត្រូវ (Certified Date/Date de certification):
08. APR. 2009

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: CA. May

Attendance Record
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge THOU Mony.
Reserve Judges: Judge YOU Ottara (Reserve) and Judge Claudia FENZ (Reserve)
Greffier/s: Mr. Matteo Crippa, Mr. Lim Suy Hong, Ms. Natacha Wexels-Riser, Mr. Duch Phary, Mrs. Se Kolvuthy.
OCP: Mrs. Chea Leang, Mr. Robert Petit, Mr. Yet Chakriya, Mr. William Smith, Mr. Seng Bunkheang, Mr. Pich Sambath, Mr. Alex Bates, Mr. Pak Chanlino, Stuart Ford;
Accused: Mr. Kaing Guek Eav alias Duch.
Defence for the Accused: Mr. Kar Savuth, Mr. François Roux, Mrs. Héleyn Uñac, Mr. Kar Savuth, Mrs. Marie-Paule Canizares, Ms. Virginie Charpentier, Ms. Lucile Nattiez.
Civil Parties:
[Redacted]
Lawyers for the Civil Parties: Mr. Hong Kimsuon, Mr. Kong Pisey, Mr. Yung Phanit, Ms. Silke Studzinsky, Mrs Martine Jacquin, Mr. Pierre Olivier Sur, Mr. Kim Mengkhy, Ms. Ty Srinna, Mr. Alain Werner. <i>al</i>



Courtroom Officer/CMS: Mr. Rada Sann.

Others: Mr. Scott Bywater, Ms. Julie Masse, Mr. Pierre Cozette, Ms. Marivonne Moussounda Maniacky.

General court times

Day	Start time: 9:00	Finish time: 16:20
Recess am	Start time: 10:40	Finish time: 11:00
Recess	Start time: 12:05	Finish time: 13:30
Recess pm	Start time: 14:30	Finish time: 14:55
	Total Court Time:	5 Hours, 10 minutes

Proceedings

Type of Issue	Raised By	Start time	Finish time
Opening Statement by the Co-Prosecutors	Mrs Chea Leang, Mr. Robert Petit	09:05	12:05
Objection on the Use of Video Footage During the Opening Statement	Defence	09:40	10:05
Clarification on Document E23/2	Defence	13:30	13:35
Response to the Opening Statement by the Co-Prosecutors	Accused Person, Mr. Kar Savuth, Mr. Francois Roux	13:35	15:25
Agreement of Facts	Co-Prosecutors and Defence	15:30	15:55
Parties Requests	Co-Prosecutors, Lawyers for Civil Parties and Defence	15:55	16:20

Summary of Proceedings:

Opening Statement by the Co-Prosecutors

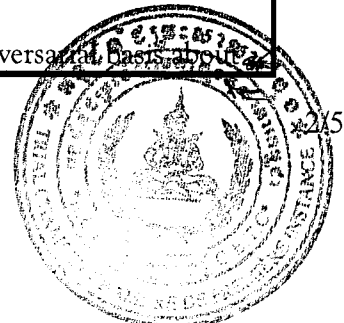
Mrs Chea Leang and Mr. Robert Petit gave the Co-Prosecutors opening statement in the case, pursuant to Rule 89 bis(2).

Objection on the Use of Certain Video Footage During the Opening Statement

The Defence objected to the use of certain video footage during the opening statement on the basis that the Trial Chamber has not ruled on this footage.

The Co-Prosecutor stated that the video footage in question is part of the case file for more than 2 years. He also clarified that this video footage is not the same footage being the subject of an application currently pending before the Trial Chamber.

The Defence submitted that Co-Prosecutors failed to discuss on an adversarial basis about the



material introduced during the investigation phase and it is now using it at trial without prior notice to the Defence and the Trial Chamber.

Co-Prosecutor submitted that large part of the documents in the investigation case file were already part of the Co-Prosecutors introductory submissions and therein indicated as evidence supporting the investigation against the Accused.

After deliberation, the Trial Chamber dismissed the objection.

Clarification on Document E23/2

Asked by the Trial Chamber for clarification on Document E23/2, the Defence indicated that the Accused requests to be afforded now the opportunity to respond to the opening statement made by the Co-Prosecutor, and thereafter his lawyers will also respond to the said statement.

Trial Chamber granted the request.

Response to the Opening Statement by the Co-Prosecutors

The Accused, followed by his Defence Lawyers, responded to the opening statement by the Co-Prosecutors. The Accused showed a drawing during his response to the opening statement. The Trial Chamber ordered to file the drawing by the Accused as document E36 to the Case file.

Request to comment on the Defense response to the opening statement.

The Co-Prosecutors requested to comment on the Defense response to the opening statement. The Trial Chamber denied the Co-prosecutors request pursuant to Article 89 bis(2) and the Direction on the Scheduling of the Trial dated on 23 March 2009 on the basis that the court at this time is only hearing the opening statements and proceeding have not yet reached the stage of examining the evidence.

Agreement of Facts

The Co-Prosecutors indicated that they have submitted for agreement by the Defence a total of 351 factual allegations arising from the Closing Order. This document has been filed under document number E5/11/2. The Co-Prosecutors indicated that 238 of these factual allegations have been either agreed upon or are not disputed by the Defence. The Co-Prosecutors indicated that the Defence will soon file a response indicating the details of which allegations they agree upon or do not contest.

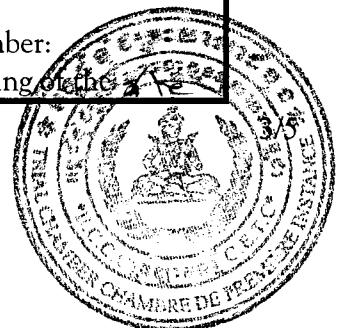
The Defence agreed with the comments made by the Co-Prosecutors on this issue and indicated that tomorrow they will submit a document as referred to by the Co-Prosecutors.

The Trial Chamber asked the parties whether it is possible to obtain an advance copy of the Defence document. The Defence indicated that they will submit this at the end of today's hearing and reiterated that they will file it tomorrow.

Parties Requests

The Co-Prosecutors brought 3 requests to the attention of the Trial Chamber:

1_ The Co-Prosecutors requested clarification on the manner of questioning of the



Accused by the Trial Chamber and its future scheduling;

2_ The Co-Prosecutor requested indication on how the Trial Chamber will deal with witnesses who will provide evidence of several factual topics, and in particular on whether these witnesses will be questioned on several factual topics during their testimony or will be recalled each time a different factual topic is discussed;

3_ The Co-Prosecutors requested that the Trial Chamber inquire with the Defence whether it intends to make submissions on the legality of the proceedings. They indicated that it is not possible for the proceedings to continue without the issue of their legality to be addressed first. They also indicated that this issue should have been raised during the Initial Hearing as a Preliminary Objection.

The Civil Party Lawyers for Groups 1 and 2 indicated that they intend to raise specific requests and offered to do it tomorrow.

Civil Party Lawyer Hong Kim Suon (Civil Party Groups 2 and 4) indicated that the pseudonyms used in the Closing Order do not correspond to those used by the Trial Chamber. He also inquired on the modality for the examination of witnesses at trial.

The Civil Party Lawyer for Group 3 submitted that the documents containing the agreement of facts between the Defence and the Co-Prosecutors should be presented orally in court in consideration of the principle of orality and in order to allow the civil parties to immediately assess these agreed facts.

The Defence indicated that tomorrow they will file a request concerning the detention of the Accused.

Oral Orders/Decisions:

1 - Objection on the Use of Video Footage During the Opening Statement

Trial Chamber dismissed the Defence objection and allowed the Co-Prosecutors to continue their opening statement.

2 - Clarification on Document E23/2

Trial Chamber granted the request for the Accused to respond to the opening statement, followed by his lawyers.

3 - Order to file drawing by the Accused showed during his response to the opening statement. Drawing is filed as document E36.

4 - Trial Chamber denied a request by the Co-Prosecutor to comment on the Defence response to the opening statement

5 - Order to take the Accused back to the Detention Facility. *te*



Orders for Adjournment of Hearing

Adjournment of Hearing: hearing will resume tomorrow, 1 April 2009 at 9:00.

Phnom Penh, 06 Apr. 09

Greffier

Greffier



Se Kol Vuthy

Matteo CRIPPA