



**ឯកសារច្បាប់ត្រឹមត្រូវតាមច្បាប់ដើម**  
**CERTIFIED COPY/COPIE CERTIFIÉE CONFORME**

ថ្ងៃ ខែ ឆ្នាំ នៃការបញ្ជាក់ (Certified Date/Date de certification):  
 ..... 10 / 04 / 2009 .....

មន្ត្រីទទួលបន្ទុកដំណោះស្រាយ/Case File Officer/L'agent chargé  
 du dossier: ..... UCH APUN .....

**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

**WRITTEN RECORD OF PROCEEDINGS - "DOCUMENT ORIGINAL/DOCUMENT ORIGINAL"**  
**PUBLIC**

Case File N° 001/18-07-2007-ECCC/TC

6 April 2009

Substantive Hearing - Day 4

**ឯកសារដើម**

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):  
 ..... 10 / 04 / 2009 .....

ម៉ោង (Time/Heure): ..... 14 : 00 .....

មន្ត្រីទទួលបន្ទុកដំណោះស្រាយ/Case File Officer/L'agent chargé  
 du dossier: ..... UCH APUN .....

Prepared by: Natacha WEXELS-RISER and LIM Suy-Hong

<b>Attendance Record</b>
<b>Before:</b> Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge THOU Mony.
<b>Reserve Judges:</b> Judge YOU Ottara (Reserve) and Judge Claudia FENZ (Reserve)
<b>Greffier/s:</b> Mr. Matteo Crippa, Mr. Lim Suy Hong, Ms. Natacha Wexels-Riser, Mr. Duch Phary, Mrs. Se Kolvuthy.
<b>OCP:</b> Ms. Chea Leang, Mr. Robert Petit, Mr. Seng Bunkheang, Mr. Pich Sambath, Mr. Alexander Bates, Mr. Pak Chanlino, Mr. Jurgen Assmann.
<b>Accused:</b> Mr. Kaing Guek Eav alias Duch.
<b>Defence for the Accused:</b> Mr. Kar Savuth, Mr. François Roux, Mrs. Héleyn Uñac, Mr. Kar Savuth, Mr. Chan Ravuth, Mrs. Marie-Paule Canizares, Ms. Virginie Charpentier, Ms. Lucile Nattiez.
<b>Lawyers for the Civil Parties:</b> Mr. Hong Kimsuon, Mr. Kong Pisey, Mr. Yung Phanit, Ms. Silke Studzinsky, Ms Moch Sovannary, Mr. Philippe Canonne, Ms. Ty Srinna, Mr. Alain Werner.
<b>Courtroom Officer/CMS:</b> Mr. Rada Sann.
<b>Others:</b> Mr. Scott Bywater, Ms. Julie Masse, Mr. Pierre Cozette, Ms. Maryvonne Moussounda Maniacky.

**General court times**



Day	Start time: 09:10	Finish time: 16:20
Recess am	Start time: 10:30	Finish time: 10:55
Recess	Start time: 12:00	Finish time: 13:35
Recess pm	Start time: 14:40	Finish time: 15:00
	Total Court Time:	4 hours 50 min

<b>Proceedings</b>			
Type of Issue	Raised By	Start time	Finish time
Response to pending requests	TC	9:12	9:20
Recognition of foreign lawyer	TC	9:23	9:24
Questioning of the Accused on the issue of M-13	TC	9:30	
Objection to inculpatory use of Document D9	Defence		
Request for a decision on the use of Document D9	OCP		

#### Summary of Proceedings:

##### **Recognition of Foreign Civil Party Lawyer (Rule 23(7)(e)(i)):**

Philippe Canonne was introduced by his Cambodian Co-Lawyer and recognised by the Trial Chamber for these proceedings.

##### **Questioning of the Accused on the issue of M-13:**

The Chamber clarified that the facts relating to M-13 are not contained in the Indictment and recalled the jurisdiction *ratione temporis* of the ECCC. However, it expressed the necessity to examine this topic to have a clearer understanding of the context of S-21 and the motives and personality of the Accused.

##### *Documents used during the questioning*

The Chamber gave notice to the parties that the following documents would be used:

- "Interview with Ham In", DC Cam (Document D59, Annex 4),
- "Interview with Im Vorn", DC Cam (Document D59, Annex 12),
- "Report 64/75/08. Issue 18" (Introductory Submission, document 19.25),
- Article extract from the DC Cam magazine "Searching for the truth" special English edition July 2003, "The Security system of special zone's office M13" (Introductory Submission, document 1.8),
- "Interview with Duch" (4 May 1999, with the representative of the United Nations Office of the High Commissioner for Human Rights), (Document D9)

##### *Use of document D9*

The Defence objected to the inculpatory use of document "KAING Guek Eav alias Duch UNHCHR Suspect Statement" (IS Annex C No.20.19 dated 4-6 May 1999), referred to in Footnote 710 of the Final Submission of the Co-Prosecutors and the subject of Document

D9, because the Accused, as a suspect, was not warned of his right to remain silent. The Co-Prosecutor argued that this document was already in the case file and requested a decision of the Chamber on whether this document could be used, both in an inculpatory and exculpatory manner.

The Chamber invited the parties to make written submissions (limited to 2 pages in English and French, 4 pages in Khmer) by 8 April 2009 to the Chamber, which will issue a decision in due course.

*Questioning of the Accused*

The Accused was questioned by the Chamber on:

- the political and historical context at this stage,
- the detention of the Accused during the years 1969/1970 and the consequences of this situation,
- the personal position of the Accused when M-13 was created,
- the involvement of the Accused in the CPK.

The Defence requested the interpreter to indicate when he does not understand what is said. It further requested that the names of places and people be shown on a screen when they are mentioned. The Chamber accepted the request and asked the Accused to speak more slowly. The Chamber also indicated that it would make the necessary arrangements with the ICT section for names to appear on the screen.

The Chamber read extracts from the "Written Record of Interview of Duch by the Co-Investigating Judges on 3 October 2007" (Document D21, p.11 in the English version). (p.12 in the French version). It was noted that "M-13K" in this document refers to "M-13A".

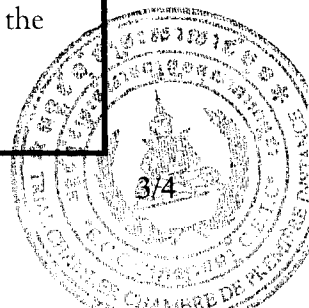
**Record of Rule 87 Proceedings**

Reference Number	Name/Description	Other
E3/1	"Interview with Duch" (4 May 1999, with the representative of the United Nations Office of the High Commissioner for Human Rights)	Document D9
E3/2	Written Record of Interview of Duch by the Co-Investigating Judges on 3 October 2007	Document D21

**Oral Orders/Decisions:**

1 - The request by the Civil Party Lawyer for Group 2 to allow them to comment on the Accused response to the opening statement by the Co-Prosecutor was rejected.

2 a)- The request by the Civil Party Lawyers to make submissions with regards to the



Defence request to release the accused for the duration of the trial as well as the document filed by the Civil Party Lawyers for Group 3 on 1 April 2009 (Document Number E39) containing submissions in response to the Defence request are rejected.

2 b) - The Civil Parties are invited to comment on the subsidiary requests made by the Defence that 1) the period of detention before the Military Court by the Accused be taken into account for any sentencing purpose and, that 2) the Accused be entitled to a reduction of any sentence in lieu of compensation for the breach of his rights. Any comment shall be made in writing within 5 days from today.

3. The Chamber ordered the parties to make written submissions (limited to 2 pages in English and French, 4 pages in Khmer) by 8 April 2009 on the use of the document entitled "KAING Guek Eav alias DUCH UNHCHR Suspect Statement" (IS Annex C No.20.19 dated 4-6 May 1999), referred to in Footnote 710 of the Final Submission of the Co-Prosecutors and the subject of Document D9.

3- Order to take the Accused to the Detention Facility and bring him back to court on 7 April 2009.

**Orders for Adjournment of Hearing**

Adjournment of Hearing: Hearing will resume on Tuesday, 7 April 2009 at 9:00. *Natacha Wexels-Riser*

Phnom Penh,  
9 April 2009

*N. Wexels-Riser*  
Greffier  
Natacha Wexels-Riser

*Lim Suy-Hong*  
Greffier  
Lim Suy-Hong

The seal of the Extraordinary Chambers in the Courts of Cambodia (ECCC) is circular, featuring a central emblem with a scale of justice and a sword, surrounded by text in Khmer and English.