



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

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PRESS RELEASE

KAING GUEK EAV CONVICTED OF CRIMES AGAINST HUMANITY AND GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 1949

The Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) today found KAING Guek Eav *alias* Duch guilty of crimes against humanity and grave breaches of the Geneva Conventions of 1949 and sentenced him to 35 (thirty-five) years of imprisonment.

KAING Guek Eav, the first person to stand trial before the ECCC, served as Deputy and then Chairman of S-21, a security centre tasked with interrogating and executing persons perceived as enemies of Democratic Kampuchea by the Communist Party of Kampuchea. S-21 was operational between 1975 and 1979. The Chamber found that every individual detained within S-21 was destined for execution in accordance with the Communist Party of Kampuchea policy to “smash” all enemies. In addition to mass executions, many detainees died as a result of torture and their conditions of detention. Although finding a minimum of 12,272 individuals to have been detained and executed at S-21 on the basis of prisoner lists, the Chamber indicated that the actual number of detainees is likely to have been considerably greater.

The Trial Chamber found that KAING Guek Eav acted with various individuals, and through his subordinates, to operate S-21 and S-24: an adjunct facility used as a re-education camp, and where a minimum of a further 1,300 individuals were detained. It further found that KAING Guek Eav possessed and exercised significant authority at S-21 and that his conduct in carrying out his functions showed a high degree of efficiency and zeal. He worked tirelessly to ensure that S-21 ran as efficiently as possible and did so out of unquestioning loyalty to his superiors. The Chamber found that KAING Guek Eav therefore not only implemented but actively contributed to the development of Communist Party of Kampuchea policies at S-21.

KAING Guek Eav had also been charged with national crimes of premeditated murder and torture, punishable before the ECCC under Article 3 (new) of the ECCC Law. The Chamber, in a separate decision also issued today, disagreed on whether responsibility for these crimes had already been extinguished before the ECCC investigation of the Accused commenced. The absence of a required majority prevented the Chamber exercising its jurisdiction in relation to these national crimes. This decision had no impact on sentence.

KAING Guek Eav was convicted of crimes against humanity (persecution on political grounds) (incorporating various other crimes against humanity, including extermination, imprisonment and torture), as well as numerous grave breaches of the Geneva Conventions of 1949, for which, by a majority, the Chamber imposed a single, consolidated sentence of 35 (thirty-five) years of imprisonment. In deciding on an appropriate sentence, the Chamber noted a number of aggravating features, in particular the gravity of the offences, which were perpetrated against at least 12,272 victims over a prolonged period.

The Chamber decided that there are significant mitigating factors that mandated the imposition of a finite term of imprisonment rather than one of life imprisonment. These factors include cooperation with the Chamber, admission of responsibility, limited expressions of remorse, the coercive environment in Democratic Kampuchea, and the potential for rehabilitation.

Following an earlier decision of the Chamber of 15 June 2009, the Chamber considered that a reduction in the above sentence of 5 (five) years was appropriate given the violation of KAING Guek Eav's rights occasioned by his illegal detention by the Cambodian Military Court between 10 May 1999 and 30 July 2007. KAING Guek Eav is further entitled to credit for time already spent in detention, under the authority both of the Cambodian Military Court and the ECCC.

In its judgement, the Trial Chamber declared 66 Civil Parties either to have established their claim to be immediate victims of S-21 or S-24, or to have proved the existence of immediate victims of S-21 or S-24 and close kinship or particular bonds of affection or dependency in relation to them. They have further shown that the death of these victims caused demonstrable injury and that this harm was a direct consequence of KAING Guek Eav's offending. The Chamber granted the request of these Civil Parties that their names be included in the judgement. The Chamber rejected all Civil Party claims on the grounds of lack of specificity, or as being beyond the scope of available reparations before the ECCC. However, it ordered the compilation and publication of all statements of apology made by the Accused during the trial.

The substantive part of the trial against KAING Guek Eav commenced on 30 March 2009. Closing arguments ended on 27 November 2009 after a total of 72 trial days, during which 24 witnesses, 22 Civil Parties and nine experts were heard. More than 28,000 people followed the proceedings from the public gallery.

