



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 ALIAS DUCH SENTENCED TO LIFE IMPRISONMENT BY THE SUPREME COURT CHAMBER

The Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) today sentenced KAING Guek Eav alias Duch to life imprisonment, the maximum sentence available under the law, for crimes against humanity and grave breaches of the 1949 Geneva Conventions.

Granting an appeal from the Co-Prosecutors, the Supreme Court Chamber quashed the 35 years sentence imposed by the Trial Chamber on 26 July 2010, and by supermajority also quashed the Trial Chamber’s decision to grant a remedy for 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. The Supreme Court Chamber dismissed an appeal from KAING Guek Eav in which he alleged that he did not fall within the personal jurisdiction of the Court, holding that, whether an accused is a senior leader or one of those most responsible are exclusively policy decisions for which the Co-Investigating Judges and Co-Prosecutors are accountable.

The Supreme Court Chamber held that in determining sentence the Trial Chamber attached undue weight to mitigating circumstances and insufficient weight to the gravity of crimes and aggravating circumstances. As to aggravating factors, the Supreme Court Chamber noted that KAING Guek Eav held a central leadership role at the Security Center S-21, which he abused by training, ordering, and supervising staff in the systematic torture and execution of prisoners deemed to be enemies of the Democratic Kampuchea regime, and he showed “dedication to refining the operations of S-21”, which was “the factory of death”.

The Chamber noted that the high number of deaths for which KAING Guek Eav is responsible (minimum 12,272 lives), along with the extended period of time over which the crimes were committed (more than three years), undoubtedly place this case among the gravest before international criminal tribunals. The Chamber also held that the fact that the Accused was not on the top of the command chain in the regime does not by itself justify a lighter sentence, and that there is no rule that dictates reserving the highest penalty for perpetrators at the top of the chain of command.

A supermajority (Judge Klonowiecka-Milart and Judge Jayasinghe dissenting) further held that the Trial Chamber misinterpreted the relevant international jurisprudence to mean that violations of KAING Guek Eav’s rights should be redressed by it *even* in the absence of violations attributable to the ECCC and in the absence of abuse of process. In the absence of both of these circumstances, the Trial Chamber should have rejected KAING Guek Eav’s request for remedy.

Judges Klonowiecka-Milart and Jayasinghe consider that granting a remedy is ECCC’s responsibility and that granting KAING Guek Eav a remedy by commuting the life sentence to a fixed term of 30 years’ imprisonment would be appropriate.

The Supreme Court Chamber also granted in part the appeal by the Co-Prosecutors requesting cumulative convictions of crimes against humanity. In its findings, the Supreme Court Chamber held that the Trial Chamber erred in law by subsuming specific crimes against humanity under the crime of persecution instead of convicting KAING Guek Eav for all the crimes against humanity for which he was found responsible. As a result, the Supreme Court Chamber affirmed the conviction for the crime against humanity of persecution, and entered additional convictions for the crimes against humanity of extermination (encompassing murder), enslavement, imprisonment, torture, and other inhumane acts.

The Supreme Court Chamber also granted the appeals from 10 Civil Party Applicants whose applications had been rejected by the Trial Chamber in the Trial Judgement. These Civil Party Appellants have substantiated their applications on appeal, and are therefore admitted as Civil Parties in Case 001.

The Supreme Court Chamber also decided on appeals from Civil Parties related to the Trial Chamber's ruling on their requests for collective and moral reparations. The Supreme Court Chamber affirmed the Trial Chamber's decision to compile and post on the ECCC's official website all statements of apology and acknowledgements of responsibility made by KAING Guek Eav during the course of the trial, including the appeal stage. All other Civil Party claims for reparation were rejected by the Supreme Court Chamber either because they would be unenforceable, or in order to be implemented they would necessitate financial means of KAING Guek Eav, who is indigent, or an order against the Cambodian State.

The summary of the Appeal Judgement read out in today's public hearing is available on the official website of the Court (www.eccc.gov.kh). The full Appeal Judgement will be published in due course.