



Duch trial ends with a twist
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“Do I infer that the accused is seeking an acquittal?” asked Judge Cartwright. “I did say that. Release means an acquittal,” responded Cambodian defence counsel Kar Savuth.

These were the final words in the trial of Kaing Guek Eav, a.k.a. Duch, the former head of the Khmer Rouge detention and torture centre S-21. They signalled the implosion of Duch’s defence team after an eight month trial during which it had appeared to be the most well-prepared and cohesive party by far.

At the last possible moment, during closing arguments last month, the Cambodian co-counsel asked for his client to be released, arguing that the Extraordinary Chambers in the Courts of Cambodia (ECCC) lacked jurisdiction to try Duch since he had never been a senior leader of the Khmer Rouge regime.

This was a complete reversal from what had been the defence line for more than two years under French co-counsel François Roux. Under Roux’s guidance, Duch had pleaded guilty, apologized to his victims and said that he would accept the harshest sentence for his crimes.

But he is now asking to be acquitted, openly siding with his Cambodian lawyer against his French one. In a final twist, the defence team effectively destroyed itself, without any help from the prosecution.

“We were as surprised as everyone,” said acting Chief Prosecutor William Smith at a press conference after the hearing.

“Throughout the case we have said that the accused’s remorse and cooperation were limited. The fact that it ended [this way] reinforces my position that his remorse is limited.”

Civil parties, who had consistently expressed their doubts about the sincerity of Duch’s remorse and full cooperation, also felt vindicated by the accused’s u-turn.

“This was a slap in the face of the victims of the regime,” said one of their lawyers, Silke Studzinsky. “The door is now closed,” she added, while one of her colleagues said he still preferred that it “remained ajar.”

Despite the actions of his Cambodian co-counsel, Roux has nevertheless remained on board - at least for the time being.

In an interview with online newspaper Ka-Set, Roux noted that his co-counsel’s position echoed the Cambodian government’s desire not to prosecute any suspects other than the four members of the Khmer Rouge leadership awaiting trial before the ECCC in 2011.

“The message [being sent] to the three Cambodian judges is far from neutral,” he said.

“I may be wrong in my interpretation but I am not off the subject when I hear [Cambodian Prime Minister] Hun Sen say: ‘I don’t want more’, when I know that [Cambodian prosecutor] Chea Leang does not want more and when Kar Savuth says ‘There mustn’t be more’ ...If this is what is meant to be acknowledged, then Duch is not involved,” Roux said.

“To witness such collapse at the end of the Duch trial is to send a very strong message: ‘Your tribunal is not ours,’” Roux concluded.

Following the hearing, Smith told reporters that “the collaboration between Cambodians and non-Cambodians is one of the greatest successes of this court.” Roux, however, disagrees and says that it is precisely this peculiar feature of the ECCC - where at every level a Cambodian national shares responsibilities with an international counterpart - that led to such an undesirable situation.

“A detainee is always in his lawyers’ hands. It is an impossible situation for him when he has two lawyers who say two different things.”

For two months the international co-investigating judge has also been dealing with an uncomfortable conflict with his Cambodian colleague. Last week was the turn of the defence. Tomorrow, it may well be the turn of the trial judges.