



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Kingdom of Cambodia
Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the
Courts of Cambodia

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត
Office of the Co-Investigating Judges
Bureau des Co-juges d'instruction
សំណុំរឿងព្រហ្មទណ្ឌ
Criminal Case File /Dossier pénal
លេខ/No: 002/14-08-2006
លេខស៊ើបអង្កេត/Investigation/Instruction
លេខ/No: 002/19-09-2007-ECCC/OCIJ

កំណត់ហេតុនៃកិច្ចពិភាក្សាដេញដោល
Written Record of Adversarial Hearing
Procès verbal de débat contradictoire

The fourteenth of November in the year two thousand and seven, at two fifteen p.m.

We, **You Bunleng យូ ប៊ុនហ្គេង** and **Marcel Lemonde**, Co-Investigating Judges of the
Extraordinary Chambers, with Mr. Ham Hel ហាម ហែល and Mr. Ly Chantola លី ច័ន្ទតុលា as
Greffiers

Noting the Law on the Establishment of the Extraordinary Chambers, dated 27 October 2004
Noting Rule 63 of the Internal Rules of the Extraordinary Chambers

In the presence of OUCH Channora អ៊ូច ចាន់ណូរ៉ា and TANHEANG Davann តាន់ហ៊ីង ដាវ៉ាន់, sworn interpreters of the Extraordinary Chambers

Having been brought before us and having provided the following information regarding his personal identity:

Last name: **IENG**
Firs name: **Sary**
Alias **Van**
Sex: male

Date of Birth: 24 October 1925, at Commune of Loeung Va, district of Tra Ninh, province of Tra Ninh, Kampuchea Krom

Nationality: Cambodian;

Name of father: Kim Riem (deceased).

Name of mother: Trâm Thi Lôi (deceased).

Name of husband: IENG Thirit (living). With four children

Present address: No 47b, street 21, groupe 36, zone 4, Tonle Bassac quarter, Chamkamorn district, city of Phnom Penh

Previous convictions: Convicted in absentia for the crime of genocide by the People's Revolutionary Tribunal of Phnom Penh, on 19 August 1979.

Charged with:

- **Crimes Against Humanity,**
- **Grave Breaches of the Geneva Conventions of 12 August 1949,** offences defined and punishable by Articles 5, 6, 29 (New) and 39 (New) of the Law on the Establishment of the Extraordinary Chambers, dated 27 October 2004.

The original of this record is written in the Khmer language.

- We advised the Charged Person that this Adversarial Hearing is being audio visually recorded.
- We advised the Charged Person that we are considering whether to place him in provisional detention, and explained that this decision may only be made after an Adversarial Hearing.
- We advised him of his right to have a lawyer of his own choosing or a lawyer named in the list provided for in Rule 11(2)(d) of the Internal Rules of the Extraordinary Chambers.

The Charged Person declared:

- I have already chosen Mr. ANG Udom
- Mr. ANG Udom lawyer for the Charged Person was able to examine the file placed at his disposal and freely consult with his client:

ADVERSARIAL HEARING

The Co-Prosecutors Mr. Robert Petit and Mrs. Chea Leang presented their submissions:

Mrs Chea Leang:

The preliminary investigation showed that Ieng Sary was a senior leader Democratic Kampuchea. He was Vice Prime Minister and Minister of Foreign Affairs, and member of the Standing Committee of the Communist party of Democratic Kampuchea, when it was in power between 17 April 1975 and 6 January 1979. The initial investigations also showed that he indeed committed the crimes mentioned in the introductory submission. The co-prosecutors request his provisional detention for the following reasons. First, to guarantee his appearance before the Extraordinary Chambers: indeed he possesses a passport and there is a danger of flight. Moreover, if the Charged

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Person remains at liberty, the victims could seek revenge themselves. Finally, the witnesses would be afraid to tell the truth. With regard to the legal problem raised by the amnesty the charged person was granted, this is not the appropriate discussion today. The factual and legal arguments were placed on the case file in two series of documents, on 18 October 2007 and yesterday.

The lawyer for the Charged Person:

I indeed received these documents yesterday.

The Charged Person after having heard the observations and obtained the time necessary to prepare his defence, declared that:

I would first like to specify that my name at birth was KIM Tr n. This identity corresponds to the date and place of birth indicated above:

I changed my name at the time of modification of my date of birth in order to sit the entrance exam for Sisowath high school, choosing the name of Ieng Sary. I agree that the name of Ieng Sary will be used during these proceedings. Moreover, regarding the conviction by the People’s Revolutionary Tribunal of Phnom Penh, dated 19 August 1979, I would like to specify that I was granted an amnesty by the King on 14 September 1996.

With regard to the observations formulated by the Co-Prosecutors, I can say the following:

I exercised the functions of Vice Prime Minister and Minister of Foreign Affairs as from April 1976 (I do not remember the exact date). I would like to say that before becoming Vice Prime Minister and Minister of Foreign Affairs, that is to say from April 1975 to April 1976, I worked under the orders of Angkar. Not having personally received the documents from the Co-Prosecutors, I give the floor to my lawyer.

Mr. ANG Udom presented his observations and declared that:

The Co-Prosecutors request the detention of my client without giving any justification. As for me, I will introduce all the elements showing that the Charged Person must remain at liberty. First, with regard to the risk of pressure on witnesses, Mr Ieng Sary does not have any intention to intervene in the proceedings. He has been at liberty for many years, he has been aware of possible charges against him for a long time, he had the possibility to intervene with the witnesses but never did so. He is old and sick, and is not able to intervene with witnesses or destroy evidence. If there is any evidence of pressure, provide it. Second, with regard to the guarantees of appearance, there is no danger of flight, and my client is willing to respond to any summons. Besides, his age and state of health do not enable him to escape: he has had four heart operations and had to be taken to hospital yesterday. He has a permanent address in Phnom Penh where he has been living for several years. He has a family, children and grand-children. He does not have money and cannot live anywhere else. Finally, he went to Thailand several times, and could have escaped a long time ago. In particular, it would have been easy to do so when he had armed forces under his orders. With regard to his passport, it just needs to be seized to avoid his escape abroad. Third, with regard to the risk of revenge, since rallied the Government, he was never the subject of any threat, either in Pailin or in Phnom Penh. He simply lives like everybody, without any bodyguards and his security is not in danger. Besides, the tribunal can take care of his security, if necessary. The reasons invoked are therefore without any basis.

The Charged Person:

I am very old, and before I die I would like to know the truth about a dark period in our history.

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I do not know where the truth lies, I am very happy that this Court has been established because it will be an opportunity for me to discover the truth and also to share what I know. I am frightened of dying in prison before knowing the truth. That is why I ask to remain at liberty. It is not to escape, but to take care of my health and live longer in order to know the truth. I dedicated a lot to my country and I do not intend to escape. There are certain accusations that I cannot accept.

The lawyer for the charged person:

I would like to highlight the negative aspects of provisional detention. I submit a medical certificate from a doctor in Bangkok showing that my client could die in prison, as did Ta Mok, who would not have died if he had remained at liberty. If Ieng Sary passes away, the first victim will be his family, but the second will be the Court, which will lose an important witness and will be criticized. On the contrary, remaining at liberty has many positive aspects: an old person needs his family and close relatives who can take care of him. Without wanting to criticize the doctor from the tribunal, it is possible to affirm that if a sick person is happy, his state of health can improve and one may think that he will live until the judgment. I would also like to highlight that after his conviction in 1979, my client was granted an amnesty by the King in 1996. No incidents occurred following this decision and Ieng Sary never tried to take revenge against the persons who testified against him. In conclusion, I would like to make a proposal that should be accepted by the co-prosecutors: remaining at liberty under a bail order in application of Rule 65 of the Internal Rules: the tribunal could oblige the charged person to stay at his home and ensure his protection, prohibit him to meet witnesses and suspects or to interfere in any way in the proceedings and finally, seize his passport in order to avoid his escape abroad, except for medical visits.

Mrs. Chea Leang:

I do not have the intention to respond in detail, since this is not a hearing regarding substantial issues. I reiterate that the crimes alleged against the charged person are very serious. It is true that bail orders are provided for under Article 122 of the Code of criminal procedure and Rule 65 of the Internal Rules, but there is not yet any jurisprudence, since it is a recent measure. With regard to the medical certificate, I observe that the first page is dated 11 October 2007, the second page 13 November 2007, whereas the fax is dated 30 April 2005. It mentions old examinations.

The lawyer for the Charged "Person:

Last remark: It is thanks to Ieng Sary that the Khmer Rouge troops were integrated with the Government, and thanks to him we have peace now.

Suspension of the adversarial hearing at four fifty-four pm.

The adversarial hearing recommenced at six forty-five pm.

We advised the Charged Person that by an order issued today, we hereby place him in Provisional Detention and issued a Detention Order. We gave him the reasons for the decision orally and informed him that the written decision will be notified tomorrow.

The original or one of the originals of the audio and video recording has been labeled and sealed in the presence of the Charged Person, and has been signed by us, the Greffiers, the Charged Person and his lawyer.

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា មានទីតាំងស្ថិតនៅ ផ្លូវជាតិលេខ៤ សង្កាត់ ចោមចៅ ខណ្ឌ ដង្កោ ក្រុង ភ្នំពេញ ប្រអប់សំបុត្រលេខ៧១

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A copy of the audio and video recording or one of the originals was given to the Charged Person.

At seven o-five pm, we had the Greffier read aloud this Written Record of Adversarial Hearing as recorded.

The record having been read aloud and heard, the Charged Person had no objections and agreed to sign.

Charged Person	Lawyer for the Charged Person	Co-Prosecutors	Interpreters	Greffiers	Co-Investigating Judges
Ieng Sary	Ang Udom	Chea Leang Robert Petit	Heng Ham Kheng Ouch Channora	Ly Chantola Hem Hel	Yo Bunleng Marcel Lemonde

โรงพยาบาลพระมงกุฎเกล้า

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PHRAMONGKUTKLAO HOSPITAL

315 Ratchawithi Rd., Ratchathewi
Bangkok 10400, Thailand Tel. 0-2354-7779

Oct 11, 2007

Re MR. IENG SARY

To whom it may concern

He is 80 y.o. man who has regular follow up at The Phramongkutklo Hospital for his heart problem. He had bypass surgery for his ischemic heart condition. He also had PCI for stenosis of the heart.

He has high blood pressure, BPH, and low back pain. He has allergic to no medication.

His exam: BP 140/80 80 regular. His lungs were clear. And his heart sound was normal.

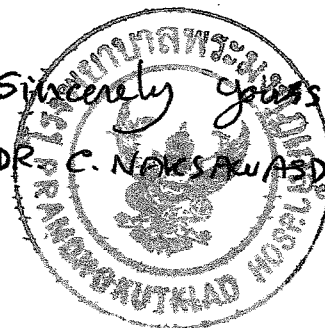
Echocardiogram Revealed LVEF 50% with anterolateral wall hypokinesia.

His current medication: cratils, Xanax 0.25, plavix 100, lipitor 107 1x1, Xatral 1x1, Nexium 207 1x1, Herbexor SR 2007 1x1, COZAR 507 1x2, lasix 407 1/2 09, ISMO 1x2, Zensil 1x1, AIRX 1x1, ASA 817 1x1, Proscar 1x1.

If you need more information, please do not hesitate to contact us.

Sincerely yours

DR. C. NAKSAWASDI M.D. FAEC.



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315 Ratchawithi Rd., Ratchathewi
Bangkok 10400, Thailand Tel 0-2354 7779

13 NOV 2007

RE : ENG SAREE

He is 78 y.o. man who has regular follow up for his cardiac condition. He had AMI and CABG in the Bangkok General Hospital. (Cath: LM: OK, LAD: 100% or 100% RCA: stent. PDA 30%. LIMA to LAD OK SVG to OM2) EF 35% MR 2+ (1998)

Aug 18, 2003: he had angina: and PCI: to SVG to OM2 graft: direct stent: 4.0 x 18 mm. / 10 bar.

Jan 26, 2006: PCI: SVG to OM2 prox to prior stent with vision 4.0 x 18 mm. and microdrive 4.0 x 24 tandem stent

He also has A-fib, BPH, HTN, low back pain

His current medication:

viatril 5 100, Xanax 0.25 1 hs, Plavix 1x1, Lipitor 10 1x1, Xatral 1x1, Nexium 20 1x2, Hctheron SR 200 1x1, Cozart 1x2, Lasix 40 1/2 OD, ISMO 1x2, Zensil 1x1 by AIR X 1x2, ASA 81 1x1 Proscar 1x1, Neurontin 300 1 hs

If you need more information, please do not hesitate to contact us.

Sincerely Yours

DR. C. NAKSAWASDI M.D. FACC.