

លេខ/No: D117



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the
Courts of Cambodia

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត
Office of the Co-Investigating Judges
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លេខស៊ើបសួរ/Investigation
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ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation-Religion-King

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កំណត់ហេតុនៃការសួរចម្លើយ

Written Record of Interview of
Charged Person

On the nineteenth of November, two thousand and eight at 9.10 a.m.,

We, **You Bunleng ឬ ប៊ុនឡេង** and **Marcel Lemonde**, Co-Investigating Judges of the
Extraordinary Chambers in the Courts of Cambodia,

With **Mr Ham Hel ហឹម ហ៊ែល** and **Mr Ly Chantola លី ច័ន្ទគុណា** as Greffiers,

Noting the Law on the Establishment of the Extraordinary Chambers in the Courts of
Cambodia, dated 27 October 2004 (the "ECCC law"),

Noting Rule 58 of the Internal Rules of the Extraordinary Chambers,

With **OUCH Channora អ៊ូចចាន់ណុរ៉ា** and **TANHEANG Davann តាន់ហ៊ីង ដាវ៉ាណូ**, as sworn
interpreters of the Extraordinary Chambers,

Interviewed the Charged Person identified below:

ឯកសារចម្លងបញ្ជាក់ត្រឹមត្រូវតាមច្បាប់ស៊ើប
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME
ថ្ងៃ ខែ ឆ្នាំ ត្រឹមត្រូវ (Certified Date/Date de certification): 01. DEC. 2008
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: C.A. Amy

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Name: **Kaing Guek Eav កាំង ហ្គេកអ៊ាវ** alias **Duch ឌុច**, male, born on 17 November 1942,

Charged with **Crimes Against Humanity and Grave Breaches of the Geneva Conventions of 12 August 1949**, offences defined and punishable under Articles 5, 6, 29 (New) and 39 (New) of the ECCC Law,

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

The Co-Prosecutors of the Extraordinary Chambers, Mr Robert Petit and Mrs Chea Leang ជា ណាង, were duly notified of this interview by Notification Letter dated 28 October 2008:

- Mrs Chea Leang ជា ណាង was represented by Mr Pich Sambath ពេជ្រសម្បត្តិ, Senior Assistant Co-Prosecutor,
- Mr Robert Petit was represented by Mr Vincent de Wilde d'Estamel, Senior Assistant Co-Prosecutor.

Mr Kar Savuth ការ សាវុត្ត and Mr Francois Roux, Co-Lawyers for the Charged Person, who were duly informed of this interview by Summons, dated 28 October 2008, and were able to examine the case file from that date, were both present.

Interview

Questions and answers:

Statement by the Co-Investigating Judges:

We inform you that, at the request of counsel for NUON Chea's ឆួន ជា, the confrontations scheduled for today and the following weeks have been postponed to a later date. We will therefore continue the judicial investigation with a new series of interviews.

Question by Co-Investigating Judge ML:

We would like to return to the written questions annexed to the Written Record of the interview on 25 June 2008, in order to clarify some of the answers you sent us on 22 October 2008. First of all, we would like you to clarify what you wrote about KHIEU Samphan ខៀវ សំផន. In your fifth answer, you state: *"The Committee Director of the Central Committee, of which KHIEU Samphan ខៀវ សំផន was secretary, had the power*

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to decide about purges within the satellite organs of the central committee". What do you mean exactly?

Answer by the Charged Person:

I cited the text of the 30 March 1976 resolution. First of all, I would like to specify that there is no translation problem when I talk about the "Committee Director of the Central Committee". It is not the permanent committee, but a working group constituted around the central committee, which one may also call "Office 870 Committee". As for the role of KHIEU Samphan ខៀវ សំផន, I can clarify the organization: the most important body within the Party was the Standing Committee of which POL Pot ប៉ុល ពត was Secretary. Under this body was the Office 870 Committee and around this office there was the abovementioned "working group" of which PÂNG ប៉ង was the secretary. Those under PÂNG's ប៉ង orders were part of "S-71". KHIEU Samphan ខៀវ សំផន became Secretary of the Office 870 Committee when SOEU Vasi សៀ វ៉ាស៊ី became minister of commerce and he maintained this position afterwards. You remark that at the time of my 25 June 2008 interview (page 4) I stated that KHIEU Samphan ខៀវ សំផន became Chief of Office 870 when SOEU Vasi សៀ វ៉ាស៊ី was arrested and not when he was appointed as Minister of Commerce. At that time I made a mistake, I was probably still influenced by David Chandler's book on S-21. In fact today I remember the chronology better: when KOY Thuon កុយ ធ្នួន was placed under house arrest, SOEU Vasi សៀ វ៉ាស៊ី became Minister of Commerce at his own request. KOY Thuon កុយ ធ្នួន was under house arrest for about 8 months. I remember clearly that he arrived at S-21 on 25 January 1977. SOEU Vasi សៀ វ៉ាស៊ី was arrested about one or two months later. In summary, SOEU Vasi សៀ វ៉ាស៊ី asked POL Pot ប៉ុល ពត to be appointed minister of commerce around April or May 1976 and POL Pot ប៉ុល ពត accepted immediately. It was only in February or March 1977 that SOEU Vasi សៀ វ៉ាស៊ី was arrested.

Concerning the organization of S-71 and Office 870, I was surely confused in my successive explanations, because I only understood the organization gradually, after becoming aware of the case file. I confirm what I declared in June concerning the important role of KHIEU Samphan ខៀវ សំផន, contrary to his explanations.

Question by Co-Investigating Judge YBL:

In your third answer, you explained that documents were sent to Office 870. You also stated that the confessions obtained at S-21 were sent directly to SON Sen សុន សែន and

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then to NUON Chea ឆ្លាន ណា. Does this mean that the confessions were sent and kept at 870 and that KHIEU Samphan ខៀវ សំផន was aware of their contents?

Answer by the Charged Person:

In my 3rd written answer I talk about telegrams. These were addressed to POL Pot ប៉ុល ពត, but they were read by KHIEU Samphan ខៀវ សំផន as well. On the other hand, as far as I am aware, the confessions were kept by SON Sen សុន សែន. He even called me on the phone one day, saying he had noticed traces of a break-in at his home. That was when I begin to mark the confessions with roman numerals, to deceive any thieves. To sum up, nothing allows me to affirm that KHIEU Samphan ខៀវ សំផន himself read the confessions.

Question by Co-Investigating Judge YBL:

We have shown you a telegram addressed to so-called "Brother 03" (ERN 00007262-00007265). Who is "Brother 03" and what can you tell us about this document?

Answer by the Charged Person:

I drafted this document; it is not a telegram, but a report I prepared for NAT ណាត pursuant to his request. "NAT ណាត", "SEM សែម" and "Brother 03" were all one and the same person. NAT ណាត had asked me to collect information about four people: KEAM Torth គាម ទត (head master of the Kampong Thom កំពង់ធំ lycee), TAT Bun Din តាប់ ប៊ុនឌិន (head master of the Kampong Chhnang កំពង់ឆ្នាំង lycee), NGOV Va ងូវ វ៉ា and SÂ Ka Pun ស កាពុន (respectively head master and deputy head of the Indradevi ឥន្ទ្រទេវី lycee in Phnom Penh). I used various sources to draft this report. A document by the *Jeunesses Kmers Anti-Communistes Indochinoises (JKACI)*; information collected from a secret resistance group in the city of Phnom Penh; information provided by NAT ណាត himself (who became aware that KEAM Torth គាម ទត and TAP Bun Din តាប់ ប៊ុនឌិន had stayed in Phdao Chum ផ្ដៅជុំ village, hiding their functions and claiming to be simple workers); and finally, personal information about TAT Bun Dine តាប់ ប៊ុនឌិន, who was originally from my district.

I would like to point out that, at bottom of page ERN00007265, NAT ណាត made a handwritten note "*In view of the JKACI document, we have found these two names.*"

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Signed SEM សែម 31/11 (sic)". This document was most likely made at the end of November or the beginning of December 1975 (NAT made a mistake concerning the day). S-21 was operational since October 1975. In this document NAT ណាតិ deleted my name, present at the bottom of numerous pages, to replace it with the formula "M03". This shows that S-21 took over from M03 and that NAT ណាតិ continued to use that formula to designate S-21.

Question by the Co-Investigating Judge ML:

Among the prisoners at S-21, was there anyone from S-70? More precisely, was there anyone close to KHIEU Samphan ខៀវ សំផន?

Answer by the Charged Person:

It seems to me that some people arrested came from S-70, K10 or K17. The only person related to KHIEU Samphan ខៀវ សំផន whom I can remember is CHORN ជន, director of the Chak Angré ចាក់អង្រែ power plant (which, together with the Phsar Toch ផ្សារតូច power plant, the water system and probably the State warehouse, was under KHIEU Samphan ខៀវ សំផន's control).

Question by Co-Investigating Judge (ML)

We have shown you a document (ERN 00173883, D43/IV), apparently sent to "Beloved Com870". What can you tell us about this document?

Answer by the Charged Person

It is a cover sheet for two confessions, by SAN Eap សាន់ អ៊ាប alias KHON ខុន (Phnom Penh representative of the Region 103 Commerce Unit) and the confession of SOEY ស៊ីយ៉ា alias PHÂNG ផង់ (member of the Region 103 Security Group). These confessions were delivered to POL Pot ប៉ុល ពត (the formula "Com 870" means POL Pot ប៉ុល ពត) by KÂNG Chab កង ចាប alias SÈ សែ, secretary of Zone 801 (New North zone) and officially "President of the Supreme Court" (a purely formal function). You ask me to comment the notes written in the margin: "*Already read, 19/4/78, to be continued*". I don't know who wrote that, but it was not POL Pot ប៉ុល ពត, whose handwriting was similar to mine, like SON Sen សុន សែន's and VORN Vet's វ៉ែត វេត. Perhaps NUON Chea ឡុន ជា wrote it, but that is just my assumption, because I did not see his handwriting often. Concerning the meaning of "to be continued" and its recipient, I cannot say much.

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Perhaps the document was sent back to SE សែវ afterwards. In any case, the two persons arrested were not transferred to S-21, otherwise that would have been expressly specified.

Question by Co-Investigating Judge YBL:

You explained that KHIEU Samphan ខៀវ សំផន controlled the power plants, the water board and probably the State warehouses. How did he react to the arrest of persons from those bodies?

Answer by the Charged Person:

I just remember one case, CHORN ជន. He accused his chief, KHIEU Samphan ខៀវ សំផន, of being a traitor. That was the occasion when NUON Chea ឆន ជា threatened to “send me to be a diplomat”, saying that soon there would only be two people left in the country, POL Pot ប៉ុល ពត and himself. I then made sure that CHORN ជន would not accuse KHIEU Samphan ខៀវ សំផន anymore in his confession. Concerning KHIEU Samphan ខៀវ សំផន’s reaction to CHORN’s ជន arrest, I cannot say anything. I can simply repeat what I have already said, that KHIEU Samphan ខៀវ សំផន was certainly aware of the purge process, because everyone was aware of it. I can also emphasise once again that KHIEU Samphan ខៀវ សំផន had a special relationship with POL Pot ប៉ុល ពត; the latter regarded him with esteem and perhaps was planning to make him his successor. As Henry Kissinger wrote, “If you want to understand the Democratic Kampuchea regime, you must read KHIEU Samphan ខៀវ សំផន’s thesis”, in which he wrote that Kampuchea’s revolution had to be fast. I remember one anecdote in particular showing how close these two men were to each other: after the arrest of VORN Vet’s វន វេត wife, POL Pot ប៉ុល ពត decided to replace her with SEN សែន (the sister in law of NUON Chea ឆន ជា) as directress of the Industry Hospital. It was KHIEU Samphan ខៀវ សំផន who went with SEN សែន to introduce her to the personnel.

Question by Senior Assistant Co-Prosecutor Pich Sambath:

Did KHIEU Samphan ខៀវ សំផន have authority over the textile industry?

Answer by the Charged Person:

I don’t know if it was him or the minister for industry.

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The Interview adjourned at 12 p.m.

The Interview resumed at 2.20 p.m. on the same day.

Statement by the Co-Investigating Judges:

At the resumption of the Interview, Mr Kar Savuth កាវ សាវុត្ត is not present.

Observations by the Charged Person:

I would like to make some clarifications about the dates of arrest of KOY Thuon កុយ ធួន and SOEU Vasi សៀ វ៉ាស៊ី. Following David Chandler's book (S-21, page 67) KOY Thuon កុយ ធួន was stood down on 8 April 1976 and was put in prison at S-21 on 25 January 1976 (ERN00177613, list number 6165). AS regards SOEU Vasi សៀ វ៉ាស៊ី, he was arrested on 16 February 1977 (ERN00171715, list number 9592).

Question by Senior Assistant Co-Prosecutor Vincent de Wilde d'Estamel:

The charged person has already given the same date of 8 April 1976 in his second written answer (footnote 3). Yet, in the declaration by HOU Nim ហ៊ុំ នីម on the government composition, dated 13 April 1976, KOY Thuon កុយ ធួន is mentioned as president of the Commerce Committee, with ministerial rank. How to explain that he is presented with this rank if he had been removed a few days earlier?

Answer by the Charged Person:

I don't know, but I personally didn't see the HOU Nim ហ៊ុំ នីម Statement. As I said, the date of 8 April 1976 comes from David Chandler's book. As for my memories, I'm sure about the date of 25 January 1977 and on the basis of what I remember, KOY Thuon កុយ ធួន was put under house arrest for about eight months.

Question by Co-Investigating Judge ML:

You explained this morning that SAN Eap សាន់ អ៊ាប was representative of the Region 103 Commerce Unit in Phnom Penh. If he was based in Phnom Penh, why was his interview organized in Zone 801 and not at S-21? Is it because his family was situated in Region 103?

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Answer by the Charged Person:

This decision was in compliance with the 30 March 1976 resolution: since SAN Eap សាន់ អ៊ាប was from Zone 801, it had primary authority to interview him. Having said that, I am not aware of the details of this case, I only know of this episode through the form that you showed me.

Question by Senior Assistant Co-Prosecutor Vincent de Wilde d'Estamel:

What leads the Charged Person to affirm that SOEU Vasi សៀ វ៉ាស៊ី abandoned his functions as Secretary of the Office 870 Committee when he was appointed minister of commerce? Were the two functions incompatible?

Answer by the Charged Person:

I don't have specific sources to cite, but rather rumors, but I did hear it said by a person close to SOEU Vasi សៀ វ៉ាស៊ី (TIN Kim Hong ទិន គីមហុង alias Mi មី who worked at the commerce ministry) that he wanted to move away from POL Pot ប៉ុល ពត and not work too closely with him, perhaps so as not to be watched closely every moment.

Question by Senior Assistant Co-Prosecutor Vincent de Wilde d'Estamel:

The charged person indicated that the State warehouses were "probably" under KHIEU Samphan ខៀវ សំផន's control: what are his sources? If it was not him, who could have controlled the State warehouse(s)?

Answer by the Charged Person:

ROEUNG asked me to take place beside him on 6 January 1979, when I met KHIEU Samphan ខៀវ សំផន. ROEUNG រឿង was the Director of the State warehouses, thus I infer that he worked with KHIEU Samphan ខៀវ សំផន. I am not able to answer the second part of the question.

Question by Senior Assistant Co-Prosecutor Vincent de Wilde d'Estamel:

Was the cover note for SAN Eap សាន់ អ៊ាប and SOEY ស៊ីយ៉ា alias PHANG's ផង់ confessions archived at office 870 and may we assume that it was read by KHIEU Samphan ខៀវ សំផន?

Answer by the Charged Person:

I am not able to answer this question

~~លេខ/No: D117~~**Question by Senior Assistant Co-Prosecutor Vincent de Wilde d'Estamel:**

Was it normal for a person like KÂNG Chab កង ចាប alias SÈ សែ តៃ to contact POL Pot ប៉ូល ពត directly?

Answer by the Charged Person:

Although it was within the competence of the Zone Secretary to contact POL Pot ប៉ូល ពត directly, the formalities used show that the tone was extremely respectful.

Question by the Co-Prosecutors:

The Charged Person indicated that, as a rule, KHIEU Samphan ខៀវ សំផន didn't have access to confessions. Does he think that this would apply also to the people under the authority of KHIEU SAMPHAN ខៀវ សំផន?

Answer by the Charged Person:

Before someone was arrested, it was compulsory to consult the head of his unit. Once the confession was collected, it was sent by SON Sen សុន សែន (then NUON CHEA ឆន ជា) to the unit head. There are traces of this practice: thus in the case of an arrest in Division 703, SON SEN សុន សែន noted on the confession "for the examination by Comrade PIN ពិន", who was the head of this Division.

Question by Co-Investigating Judge ML:

In the specific case of CHORN ជន, the director of the Chak Angré ចាក់អង្រែ power plant, does that mean KHIEU Samphan ខៀវ សំផន was necessarily consulted before the arrest and that the confession was necessarily showed to him afterwards?

Answer by the Charged Person:

KHIEU Samphan ខៀវ សំផន was surely consulted before CHORN's ជន arrest. His confession was sent by me to the superior who was supposed to communicate it to KHIEU Samphan ខៀវ សំផន, in order to inform the latter so that he could express his opinion on the arrest of the other persons accused in the confession.

Question by Co-Investigating Judge YBL:

You have said that the confession was sent to the unit to which the arrested person belonged. Considering the principle of secrecy characterizing the functioning of the regime, what would have happened if it was the chief of unit who was accused in the confession?

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Answer by the Charged Person:

I think that in this case the confession would not be sent to the chief, or otherwise we would send a redacted version that did not show the accusation. Thus, in YA's យ៉ា confession (or that of LY Phel លី ផែល, I'm not really sure), which accused SAO Phim ហ៊ុន ភឹម, I told the superior as a precaution that I had taken out "the name of the old one".

Question by Co-Investigating Judge YBL:

In your interview on 1 April 2008 (page 5), you talked about a 3 month *laissez-passer* that was attributed to you and signed by someone called KHANG ខាង, whose handwriting seemed to be that of KHIEU Samphan ខៀវ សំផន. Why didn't he sign his name? What was the purpose of this *laissez-passer*?

Answer by the Charged Person

PANG explained to me that "KHANG ខាង" was actually "HEM ហែម", that is KHIEU Samphan ខៀវ សំផន. I personally recognized his handwriting. I had already seen his handwriting in 1973 on a letter he wrote to RUOS Chet Tho រស់ ជេដូ alias CHEAT ជាតិ, a diplomat or lawyer under Sihanouk សីហនុ who had joined the revolution. I can only emphasize that important people in Democratic Kampuchea used multiple names: thus SON Sen សុន សែន was "KHIEU ខៀវ", but when he signed *laissez-passer* as the chief of staff, he was "KHIM ឃឹម"; when the divisions contacted him he was "Brother 89" and when S-21 wrote to him he was "Brother 62". Concerning my personal *laissez-passer*, I do not know why it wasn't signed HEM ហែម or KHIEU Samphan ខៀវ សំផន, but KHANG ខាង. I just know that SON Sen សុន សែន used to sign the *laissez-passer* with the name of KHIM ឃឹម.

As for the purpose of this *laissez-passer*, it was mainly about being able to travel in case of missions in Phnom Penh or Prey Sar. I was not the only one who had one: HOR ហ៊ុន, HIM Huy ហ៊ឹម ហ៊ុយ and HUY Srè ហ៊ុយ ស្រែ had the same *laissez-passer*.

Question by Co-Investigating Judge YBL:

You indicated that S-21 personnel occasionally carried out missions in Svay Rieng ស្វាយរៀង and Neak Loeung អ្នកលៀង. Did they have the same *laissez-passer*?

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Answer by the Charged Person:

No, they had a special, wider *laissez-passer*, on which there was a dry seal, signed by KHIM ឃឹម (SON Sen សុំន សែន). This *laissez-passer* had to be given back afterwards; its special feature was that no one was allowed to search the car of the owner.

Declaration by the Co-Investigating Judges: Document ERN00007262-00007265, which was presented to the Charged Person, is annexed to the case file further to this Written Record.

The original of the audio-visual recording was sealed before the Charged Person and his Lawyers and was signed by us, the Greffiers, the Charged Person, and his Lawyers.

One copy of the original audio-visual recording was provided to the Charged Person.

At five fifteen p.m., we asked the Greffiers to read out this Written Record of Interview of Charged Person as recorded.

After the Written Record was read out to the Charged Person, the Charged Person stated that he had no objections and agreed to sign it.

ជនគ្រូតបោធន

Charged person

មេធាវី

ជនគ្រូតបោធន
Lawyer for Charged person

អ្នកបកប្រែ

Interpreters

ក្រុមបញ្ជី

Greffiers

សហចៅក្រម

ស៊ើបអង្កេត
Co- Investigating Judges