

លេខ/No: D119



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

សំណុំរឿងព្រហ្មទណ្ឌ

Criminal Case File /Dossier pénal

លេខ/No: 002/14-08-2006

លេខស៊ើបអង្កេត/Investigation

លេខ/No: 002/19-09-2007-ECCC-OCIJ

ឯកសារទទួល	
DOCUMENT RECEIVED/DOCUMENT REÇU	
ថ្ងៃ ខែ ឆ្នាំ (Date of receipt/Date de réception):	28 / 11 / 2008
ម៉ោង (Time/Heure):	15:00
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier:	CA. Jay

កំណត់ហេតុនៃការសួរចម្លើយ

Written Record of Interview of
Charged Person

On the twenty-fifth 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 ហាម 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 ដាវ៉ាណ**, as sworn
interpreters of the Extraordinary Chambers,

Interviewed the Charged Person identified below:

ឯកសារច្បាប់តម្លៃមត្រូវតាមច្បាប់ដើម	
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME	
ថ្ងៃ ខែ ឆ្នាំ នៃការបញ្ជាក់ (Certified Date/Date de certification):	01 / 12 / 2008
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier:	SANN RADA

~~លេខ/No:~~ D119

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 លាង, were duly notified of this interview by Notification Letter, dated 28 October 2008:

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

Mr Kar Savuth កាវ 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:

Observations by the Co-Prosecutors (Vincent de Wilde): The office of the Co-Prosecutors would like to know in advance, if possible, the subject matter of the interviews in order to be able to prepare questions.

Answer by the Co-Investigating Judges:

We make every effort to indicate the subject matter of interviews to the parties in advance whenever possible. However, it was not possible in this instance. We note, in addition, since the Co-Investigating Judges play the central role in interviews, the Co-Prosecutors' questions are only of a subsidiary nature.

This interview will mainly deal with the role of KHIEU Samphan ខៀវ សំផន.

លេខ/No: D119

Question by Co-Investigating Judge ML:

We would like some clarification concerning the confessions of PHOK Chhay ហ៊ុក ឆាយ alias Touch តូច , cadre at Office 870 who was taken to S-21 on 14 March 1977 and executed on 6 July 1977 (D/36 Annex A and D43/Annex B, ERN 00171429-00171798, No. 7634). In his confession, there is an annotation dated 30 March 1977 which reads “*it has already been read*” (D43/IV OERN 00174134) and an annotation which specifies “*it has already been reported to the Angkar*”. The confession also contains an annotation by Pon ប៉ុន, dated 5 April, which reports that PHOK Chhay ហ៊ុក ឆាយ had been tortured (OERN 00068307). Another annotation by Pon ប៉ុន warns PHOK Chhay ហ៊ុក ឆាយ that, unless he confesses correctly, he will eventually be tortured to death and that he will die in agony (OERN 00068469).

Since there is reason to believe that PHOK Chhay ហ៊ុក ឆាយ worked with NUON Chea ឡាន ជ័រ and KHIEU Samphan ខៀវ សំផន, we would like to know if you can identify the author of the annotations “*it has already been read*” and “*it has already been reported to the Angkar*”? Can you explain what “organization” meant in this context and clarify how this confession was sent to the organization?

Answer by the Charged Person:

PHOK Chhay ហ៊ុក ឆាយ was the secretary of Office 870 and one may also say that he was the Pol Pot's secretary. The minutes of the meeting of the Standing Committee on 14 May 1976 (ERN 00000810) shows the nomination of 10 persons, including PHOK Chhay ហ៊ុក ឆាយ. 15 days after his arrest, a first report was submitted to the superior. The annotation “already read + sent to Angkar” was made by NUON Chea ឡាន ជ័រ. I recognize his writing. Unlike SON Sen សុំ សែន, NUON Chea ឡាន ជ័រ did not write much. He only wrote short annotations. Only he and SON Sen សុំ សែន were authorized to write such annotations. I am therefore sure that these annotations are NUON Chea's ឡាន ជ័រ. I'm prepared to confront NUON Chea ឡាន ជ័រ on this issue. You have pointed out that this annotation was made on 30 March 1977, at which time my direct superior was SON Sen សុំ សែន and not NUON Chea ឡាន ជ័រ. This is correct, but SON Sen សុំ សែន was hierarchically subordinate to NUON Chea ឡាន ជ័រ.

As regards the term “Angkar” (Organisation), in this case it was POL Pot ប៉ុល ពត. NUON Chea ឡាន ជ័រ used the term “Angkar” to refer to POL Pot ប៉ុល ពត. I am not aware

លេខ/No: D119

of the detailed operation of Office 870 regarding the submission of the document to POL Pot ប៉ុល ពត. But it could be that this was done through NUON Chea's ឆន ជា secretary, or maybe NUON Chea ឆន ជា personally delivered the document to POL Pot ប៉ុល ពត.

Question by Co-Investigating Judge ML:

Can you tell us if in this case POL Pot ប៉ុល ពត or other members of the superior ordered PHOK Chhay ហ៊ុក ឆាយ to be tortured because he refused to confess? Can you tell us to what extent NUON Chea ឆន ជា and KHIEU Samphan ខៀវ សំផន were involved in the arrest of PHOK Chhay ហ៊ុក ឆាយ and if they were aware of his arrest, him being tortured or of his execution?

Answer by the Charged Person:

If I remember correctly, the superior had no specific interest in the case of PHOK Chhay ហ៊ុក ឆាយ. It was probably my personal strategy with Pon. I do not remember clearly about the decision to arrest PHOK Chhay ហ៊ុក ឆាយ. I do not think that there was a meeting of the Standing Committee on this matter because PHOK Chhay ហ៊ុក ឆាយ was not a member of the party Central Committee. In any case, the arrest was decided by POL Pot ប៉ុល ពត, NUON Chea ឆន ជា and SON Sen សុន សែន.

For the details regarding torture, I do not recall whether the superior were aware of this or whether these were internal games played within S-21 that only concerned me and Pon ប៉ុន. It could be that SON Sen សុន សែន called me on this matter but I cannot recall it.

With regard to the decision on execution dated July 1977, I can only confirm that I did not take this decision by myself. If it had been my sole decision, it would have put an end to the confession and I would have been punished by the superior if they did not agree with my decision. I cannot remember if I asked for permission to execute PHOK Chhay ហ៊ុក ឆាយ myself or if I simply waited for orders to be given by the superior, but it must have been them who took the decision.

Question by the Co-Investigating Judge YBL:

We would now like to come back to the confession of YUOK Chuong យុក ជួង alias Chorn ជន. On 19 November, you declared that the confession was submitted to the respective unit chief, that KHIEU Samphan ខៀវ សំផន must have been consulted on this matter before the arrest of Chorn ជន and that SON Sen សុន សែន was the person who

លេខ/No: D119

subsequently submitted the confession to him. Can you tell us if KHIEU Samphan ខៀវ សំផន showed any reaction to the arrest of Chorn ជិន or whether he was aware of the confession beforehand?

Answer by the Charged Person:

I do not know how many confessions had implicated Chorn ជិន before his arrest. And I also do not know if at that time SON Sen សុន សែន was still my superior or if it was already NUON Chea ឆន ជា, I would have to check the dates. What I know is that KHIEU Samphan ខៀវ សំផន agreed with the arrest because it was a principle that the relevant unit chief had to be consulted. However, because I was far from KHIEU Samphan ខៀវ សំផន, I did not know about his reaction. I only remember that after having noted that Chorn ជិន had implicated KHIEU Samphan ខៀវ សំផន, I then sought advice from NUON Chea ឆន ជា. NUON Chea ឆន ជា then threatened me, so I withdrew all the points that implicated KHIEU Samphan ខៀវ សំផន from the confession. When members of the upper echelon were implicated in confessions, I had to seek advice from SON Sen សុន សែន, then NUON Chea ឆន ជា

Question by Co-Investigating Judge YBL:

Was KHIEU Samphan ខៀវ សំផន aware that Chorn ជិន implicated him in the confession?

Answer by the Charged Person:

If KHIEU Samphan ខៀវ សំផន only read the confession, he would not have been aware of the implication because the confession did not reveal any implication. But it could be that he knew about the matter if NUON Chea ឆន ជា and POL Pot ប៉ុល ពត discussed the matter in his presence while mocking me. In this respect, I remember an anecdote regarding CHHIM Sâm Aok ឈឹម សំអោក alias Pâng ប៉ង, whose implication in a confession led SON Sen សុន សែន to reprimand me. In Pâng's ប៉ង presence, he said that I had let someone implicate Pâng ប៉ង (later, he criticized my action conversely, blaming me for not having obtained confessions implicating Pâng ប៉ង).

លេខ/No: D119

Question by Co-Investigating Judge YBL:

Do you have any examples of arrests that were carried out against the advice of the respective unit chief?

Answer by the Charged Person:

I rarely encountered such a situation. When there were implications in confessions, the chiefs of the units to which the implicated persons belonged dared not openly challenge it. I remember having taken part in a meeting of the general staff presided by Brother 89 (SON Sen សុន សែន) with the participation of Brother 81 (Tum ទុំ), Sokh សុខ (deputy-secretary of division 170), Saom សោម (assistant to the general staff) and myself, present to identify the arrest places. At issue was the decision to arrest people associated with CHAN Chak Krey ចាន់ ចក្រី (He was the head of Division 170 from 1970 to 1975 before he was appointed assistant to the general staff in order to keep him under close scrutiny by Nat ណាត). Comrade Sokh សុខ was not in a position to challenge such a decision. He simply remarked that for some people the association with CHAN Chak Krey ចាន់ ចក្រី was proven but not for others. Finally, Brother 89 agreed and we only arrested those people whom Sokh agreed should be arrested.

Another example is Yim Sambath, who threw a grenade behind the Royal Palace. He was arrested on 4 April 1976. At SON Sen សុន សែន's request, I ordered Hor ហ៊ី not to use any torture (SON Sen សុន សែន did not want to find himself in an inferior position with respect to CHAN Chak Krey ចាន់ ចក្រី, who would have been able to hold against him that the confession had been made under torture). The interrogation was thus conducted without torture and pictures were taken to prove it. The confession of Yim Sambath យឹម សម្បត្តិ was then sent to the superior along with some photographs. A meeting was called amongst SON Sen សុន សែន, Seat Chhè, CHAN Chak Krey ចាន់ ចក្រី and myself. CHAN Chak Krey ចាន់ ចក្រី said that YIM Sambath យឹម សម្បត្តិ had acted on his own and that it was therefore useless to look for other associates. However, other arrests were conducted and finally CHAN Chak Krey ចាន់ ចក្រី was also arrested. As an additional element justifying his arrest, SON Sen សុន សែន used the reflections CHAN Chak Krey ចាន់ ចក្រី had made during the meeting, which showed the political attitude of CHAN Chak Krey ចាន់ ចក្រី towards SON Sen សុន សែន.

លេខ/No: D119

Question by Co-Investigating Judge YBL:

You have not replied directly to the following question: When a confession implicated a person, the respective unit chief had to be consulted. If the unit chief then opposed the arrest of the implicated person, were there any consequences for the unit chief?

Answer by the Charged Person:

S-21 was only informed of the two cases on which I already elaborated. I did not know about other things.

Question by the Co-Investigating Judge MLM:

You have confirmed that Chhim Sâm-Aok ឈឹម សំអោក alias Pâng ប៉ង had told you that KHIEU Samphan ខៀវ សំផន had participated in a meeting of the Standing Committee of the Central Committee on the question of the arrest of CHOU Chet ជូជេត alias Si ស៊ី who was in charge of the West Zone. Can you give more information of the date and circumstances of Pâng ប៉ង telling you this?

Answer by the Charged Person:

Pâng ប៉ង was the liaison between S-21 and Pol Pot. I could discuss both political matters and confessions with him. When CHOU Chet ជូជេត was arrested (I think it was Ta Mok តាម៉ុក who initiated the arrests because he hated CHOU Chet ជូជេត, just as he hated many other people), I immediately thought of VORN Vet វ៉ន វ៉េត. So I asked Pâng ប៉ង whether VORN Vet វ៉ន វ៉េត had participated in that meeting. I asked if VORN Vet វ៉ន វ៉េត had disagreed with the arrest of CHOU Chet ជូជេត and he told me that VORN Vet វ៉ន វ៉េត had not participated in that meeting, having been replaced by KHIEU Samphan ខៀវ សំផន. For the rest, I confirm my previous statements. I would like to confirm that my conversation with Pâng ប៉ង occurred around 17 April 1978: I tried to look up CHOU Chet's ជូជេត exact date of arrest, but I could not find it on the S-21 list. But I know that it happened just before 17 April 1978.

(The Interview was adjourned at 12.05 p.m.)

(The Interview resumed at 2.15 p.m. on the same day.)

លេខ/No: D119

Question by Co-Investigating Judge ML:

Did Pâng ប៉ង់ or another source give you other information regarding the presence of KHIEU Samphan ខៀវ សំផន at other meetings or discussions of purges, for example, regarding the purges in the East Zone and the decision to arrest its secretary SAO Pim សោ ភឹម?

Answer by the Charged Person:

This was the only time that I was informed of KHIEU Samphan ខៀវ សំផន's participation in such meetings.

Question by Co-Investigating Judge YBL:

Some Witnesses, notably Kè Pork កែ ពក, stated that KHIEU Samphan ខៀវ សំផន convened meetings to play back recordings of the confessions of KOY Thuon កុយ ធ្មន. Were you aware of that and what do you think of it?

Answer by the Charged Person:

I was very close to Kè Pork កែ ពក, but I never saw him between 1975 and 1979. I only met him again in 1990 and we talked about our lives since 1967. He talked about the arrest of VORN Vet វន វ៉េត, confirming that the arrest was made on orders from Ta Mok តាម៉ុក, that VORN Vet វន វ៉េត was arrested by a group led by comrade Line and that he had himself been present during the arrest (in 1983, NUON Chea's ឆួន ជា wife told me that Kè Pork កែ ពក was very scared and that he hid under a bed).

Regarding KHIEU Samphan ខៀវ សំផន, I do not know. Kè Pork កែ ពក did not tell me. It is only an assumption on my part, but it could be that such a meeting was organized with the participation of POL Pot ប៉ុល ពត. KHIEU Samphan ខៀវ សំផន worked at Office 870 and could not have organized a meeting with the zone secretaries such as Kè Pork កែ ពក alone. Only the party secretary had such authority.

Question by Co-Investigating Judge ML:

លេខ/No: D119

When you met KHIEU Samphan ខៀវ សំផន on 6 January 1979, did he give details of the military situation? Did he make comments on the development of the armed conflict and notably on troop movements?

Answer by the Charged Person:

That day, KHIEU Samphan ខៀវ សំផន talked very little and my previous statements give an almost complete picture of the conversation we held.

Question by Co-Investigating Judge YBL:

We present you two documents regarding Democratic Kampuchea's foreign trade (annexed to this written record). The first document, ERN 00072658, carries an annotation by the Commerce Committee, dated 23 April, "*sent to Brothers Hem ហែម and Brother Vorn វន*". The second document, ERN 00069092, concerns notably the purchase order of 1250 tons of "DTT" and also carries an annotation by the Commerce Committee, dated 3 February, "*send to Brother Hem ហែម for his opinion before being sent to Honk Kong*". Who made the annotations to these documents? Who were Brothers Hem ហែម and Vorn វន and what were their function? Was there a difference between the Ministry of Commerce and the Commerce Committee? And if so, who was Minister of Commerce and who presided the Commerce Committee?

Answer by the Charged Person:

Concerning the person who made the annotations, I am not sure because I have not seen this handwriting before. Maybe it belongs to Kao Rit កៅ រិត, the brother in law of SON Sen សុន សែន's wife, who was chairman of the Commerce Committee. Regarding the distinction between the Commerce Committee and the Ministry of Commerce I can state the following: After the decision of 30 March 1976, VORN Vet វន វេត was appointed Deputy Prime Minister in charge of the Economy and Koy Thuon was appointed Minister of Commerce. Following the arrest of KOY Thuon កុយ ធ្មន, SOEU Vasy សៀ វ៉ាស៊ី alias Doeun ឌឿន became Minister of Commerce. When SOEU Vasy សៀ វ៉ាស៊ី was arrested, there was no longer any Minister of Commerce, only the chairman of the Commerce Committee. You presented me with document ERN 00072658 which bears the letterhead of the Ministry of Commerce and is authored by the Commerce Committee. This indicates that the Commerce Committee was under the Ministry of Commerce. In fact, the work remained the same despite the disappearance of SOEU Vasy សៀ វ៉ាស៊ី, only the name changed. I add that the three Ministers I just mentioned (VORN Vet វន វេត, KOY

លេខ/No: D119

Thuon កុយ ធួន, SOEU Vasy សៀ វ៉ាស៊ី) were all members of the Central Committee, which was not the case for Kao Rit.

Concerning the persons mentioned in the annotations, "Brother Hem ហៃម" refers to KHIEU Samphan ខៀវ សំផន and "Brother Vorn វន" refers to VORN Vet វន វេត. I already explained the functions of Vorn Vet. KHIEU Samphan ខៀវ សំផន was the Secretary of the Office 870 committee.

Question by Co-Investigating Judge YBL:

The second document cited seems to show that KHIEU Samphan ខៀវ សំផន had an important role because his approval had to be obtained before the letter could be sent abroad.

Answer by the Charged Person:

Under the Khmer Rouge regime, there was frequently a person put in front as facade to hide the important person. In this case, it was certainly Pol Pot's ប៉ុល ពត approval that was sought.

Question by Co-Investigating Judge YBL:

The letter, ERN 00069092, is addressed to comrade Sokh. Who was Sokh សុខ?

Answer by the Charged Person:

The Khmer Rouge had established a private company in Hong Kong called Rin Fung រិន ហ្វុង (see document ERN 00072661). It was a front for foreign trade because certain countries were not willing to do business with the Khmer Rouge. Sokh សុខ was the representative of the Khmer Rouge in this company. He was later arrested and sent to S-21.

Regarding the use of DDT, I do not have any information. Maybe the powder was used to fight Malaria.

Question by Co-Investigating Judge MLM:

We would like to question you regarding the evacuation of Phnom Penh in April 1975. Different armed forces entered the city (armed forces of the South East Zone, armed forces of the Special Zone, armed forces of the East Zone and armed forces of the North Zone). There is reason to believe that the Special Zone forces were commanded by VORN Vet វន វេត and SON Sen សុន សែន, the South East Zone forces were commanded by Mok ម៉ុក and Muth មុត and those of the East Zone were under the command of Chan

លេខ/No: D119

Chak Krey ចាន់ ចក្រី and HENG Samrin ហេង សំរិន. Can you tell us why some people say (see Ben Kiernan, *The POL Pot ប៉ុល ពត Regime*, pgs. 31-44) that the North Zone forces were under the command of KHIEU Samphan ខៀវ សំផន?

Answer by the Charged Person:

This assertion is false. The forces of the North Zone were under the command of KOY Thuon កុយ ធ្មន and his deputy Kè Pork កែ ពក.

With regard to the other zones, it is correct that the forces of the special zone were under the command of VORN Vet វិន វ៉ែត and SON Sen សុន សែន. With regard to Southwest Zone, this Zone was not yet divided at that time and Ta Mok តាម៉ុក was in charge of it.

For the East Zone, Chan Chak Krey ចាន់ ចក្រី was only commander of division 1 and Heng Samrin was the deputy head of division 3, which was commanded by Poev Hak ពៅ ហាក់ who was arrested and sent to S-21. The commander for this zone was probably Sao Phim សៅ ផឹម. With regard to the East Zone, it should be noted that this was the only zone with a general staff. The head of the general staff was Ly Phèn លីផែល. After his arrest it was Sithon ស៊ីថុន alias Mon ម៉ុន until 1978, and then HENG Samrin ហេង សំរិន.

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 16h:50 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.

ជនគ្រូតបោន	មេធាវី	អ្នកបកប្រែ	ក្រឡាបញ្ជី	សហចៅក្រម
Charged person	ជនគ្រូតបោន	Interpreters	Greffiers	ស៊ើបអង្កេត
	Lawyer for Charged person			Co- Investigating Judges