

អវ/No:D150



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

ប័ណ្ណទទួលបានឯកសារ
DOCUMENT RECEIVED/DOCUMENT REÇU

ថ្ងៃ ខែ ឆ្នាំ (Date of receipt/Date de réception):
..... 31 / 03 / 2009

ពេលវេលា (Time/heure): 12:00

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: C.A. Fung

កំណត់ហេតុនៃការស្តាប់សាក្សី

បញ្ជាក់ថា ប័ណ្ណនេះគឺជាច្បាប់ចម្លងដ៏ត្រឹមត្រូវនៃឯកសារដើម
Certified Copy/COPIE CERTIFIÉE CONFORME

Written Record of Witness Interview
Procès-verbal d'audition de Témoin

ថ្ងៃ ខែ ឆ្នាំ ត្រឹមត្រូវ (Certified Date/Dats de certification):
..... 31 / 03 / 2009

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: C.A. Fung

On the ninetieth of March, two thousand and nine, at 9.15 a.m., at the Extraordinary Chambers in the Courts of Cambodia,

We, **YOU Bunleng** (ឃ្មុំ ប៊ុនឡេង) and **Marcel LEMONDE**, Co-Investigating Judges of the Extraordinary Chambers in the Courts of Cambodia (the "ECCC"),
With Mr. **HAM Hel** (ហាម ហៀល) and Mr. **LY Chantola** (លី ច័ន្ទគុណ) 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 Rules 24, 28 and 60 of the ECCC Internal Rules;

With **BELL Sakpheapdey** (បែល សក្កិភក្តី) and **OUCH Channora** (អ៊ូច ចាន់ណូរ៉ា), sworn interpreters of the Extraordinary Chambers;

Noting the ongoing judicial investigation against **NUON Chea** and other **Charged Persons** in relation to charges of **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;

Recorded the statements of the witness who provided the following information regarding his personal identity:

Surname: **CHHANG** (ឆាំង) Given Name: **Youk** (យ៉ុក)

Born on 22 January 1961 in commune no. 2, Tuol Kok district, city of Phnom Penh
Nationality: Cambodian
Occupation: Director of DC-Cam.

Father, Keo Tin (កែវ ទិន), deceased; Mother, Keo Nann (កែវ ណន), (living).

He is single.

Currently living at DC-Cam, number 66, Boulevard Preah Sihanouk, Phnom Penh.

- The witness declared that he can read, write and understand the Khmer language. Therefore, the original of this Written Record is written in the Khmer language.
- The witness told us that he is no family relation with either the Charged Persons or to any of the Civil Parties.
- The witness took an oath, in accordance with Rule 24 of the ECCC Internal Rules.
- We advised the witness that an audio or video recording was being made of this Interview.

Questions-responses:

Statement by the Co-Investigating Judges: Before starting with the substantive questions that we would like to ask you, we believe it is important to clarify a misunderstanding. You have stated your concern to the Witnesses/Experts Support Unit (WESU) concerning the circumstances of this interview. You complained that the defence had knowledge of your summons and indicated that you would prefer this interview to take place outside the court “in a neutral place”. We would like to specify, first, that we see the Court as the most neutral possible place; furthermore, it is true that your summons was placed on the case file without delay, since we did not expect you to request any protective measures given the many public statements you have already made. Having said that, we are prepared to discuss the matter with you.

Witness: I note that it is not for me that I am requesting protective measures, but for my family and staff. Indeed, in 1999, I received threats from IENG Thirith អៀង ធីរិទ្ធ in addition to other previous threats. I reported these facts to the UNHCHR and the Ministry of the Interior. My sister also received threats the same year, from unidentified soldiers from Pailin. All of this led me to stop my research for DC-Cam. I further note that my mother is 84 years old.

Co-Investigating-Judges: We consider that the threats you refer to were related to your position as Director of DC-Cam and that your status as a witness today does not create any specific risk.

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា មានទីតាំងស្ថិតនៅ ផ្លូវជាតិលេខ៤ សង្កាត់ ចោមចៅ ខណ្ឌ ដង្កោ ក្រុង ភ្នំពេញ ប្រអប់សំបុត្រលេខ៧១ 2

ទូរស័ព្ទលេខ +៨៥៥(០)២៣ ២១៨៩១៤ ទូរសារលេខ +៨៥៥(០)២៣ ២១៨៩១៤

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In addition, in your case, it appears difficult to organize protective measures because of your media importance: it is physically impossible to preserve your anonymity. However if you have any suggestions or specific requests we are ready to examine them.

Witness: I will let you know my position afterwards.

Q: We are showing you the written record of interview conducted by the Office of the Co-Prosecutors on 14 July 2008. Do you confirm its content?

A: Yes, but I want to add that, since 2007, the Center has received new documents, mainly from Europe and Vietnam, and that we have also received new funding, in particular from Belgium. For the rest, I am ready to answer your questions in detail.

Q: You stated that you made sure you clarified the authenticity and chain of custody of the documents collected by DC-Cam. Could you give some more details of the authenticity procedure?

A: When documents come in, I inspect them personally. I write a personal note and classify the document. There are 5 categories of originals: written documents (telegrams, minutes, confessions etc.); documents related to physical evidence (location of sites, photos of memorials or exhumations, etc.); interviews (category sub-divided into two sub-categories: witness interviews and interviews with former Khmer Rouge); photos; and finally films.

Then we complete the data-base; my deputy supervises the inputting of a certain number of details.

Then we establish micro-films and photocopies to be used for later research, while the originals are being placed in a safe.

For security reasons, the safes are spread over a range of sites. No original document leaves Cambodia.

Q: Do you only receive originals or photocopies of documents also?

A: Certain documents are not originals, but they are unique in Cambodia; for example, we received a certain number of documents from Sweden and Vietnam that are not originals, but which are treated as if they were originals due to their unique characteristics.

Q: Could you give us some more information about confessions?

A: Some of them, from the Democratic Kampuchea Ministry of Defence, were given directly to DC-Cam. For example, we have KOY Thuon's កុយ ផ្លួន confession, which was forwarded to us by the government and which was apparently found by a Vietnamese expert, now deceased, near the American Ambassador's residence. This document

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includes an annotation by Son Sen សុំន សែន. Another version, held at Tuol Sleng, contains slightly different information.

Generally, there is a series of confessions held at Tuol Sleng. These were not physically transferred to DC-Cam but we have a copy of all of them on mirco-film. Under a cooperation agreement with the Kingdom of Cambodia, we can thus work on these documents. The same is true for the documents held in the National Archives and at the Ministry of Education.

Q: How do you make sure that the document is authentic?

A: We systemically interview the person who gives us the document. There are no “Written Records” but the name and address of the person is noted. We ask the person a certain number of questions about the origin of the document and we make sure that the explanations are plausible. That is how we excluded one document that we thought was a fake. It was a document concerning the execution of foreigners by the Khmer Rouge in 1994. The content was suspect because you could feel that the author had used Khmer Rouge vocabulary, but incorrectly. It was a photocopy given to us by journalists who had already written an article about the topic and refused to tell us how they got the document. This was an isolated example. All the other documents held by DC-Cam appear to be authentic to me.

This does not mean that the use of documents is correct; for example, I can quote a researcher who committed an error in the interpretation of a document concerning the S-24 security chief (Prey Sar): this document concerned the execution of about a hundred children and had been sent to “Huy ហ៊ុយ”; the researcher thought it was Him Huy ហ៊ឹម ហ៊ុយ whereas in fact it was Huy Sré ហ៊ុយ ស្រែ .

Q: Concerning interviews conducted by DC-Cam, are there any written instructions explaining the methodology to be used when interviewing?

A: There is a written questionnaire, which I will give to your investigators. As I already told you, two categories of witnesses have been interviewed: victims and former Khmer Rouge. For the victims, we do not need any precise questions. They are invited to express themselves as completely as possible. Their interviews can reach one hundred pages. For the Khmer Rouge, we prepare the interviews with our legal officers beforehand so as not to ask any questions that could create legal problems. Indeed we are cautious not to interfere in the judicial process by asking questions that could lead to self-incrimination or violate the rights of parties. It is more about getting people to tell their life story. We have never interviewed the leaders of the Regime, having anticipated the proceedings before the trial and being careful not to interfere with them. But these interviews are still important to show the way. I note that we never use the terms “witness” or “evidence”, but speak about the “interviewer” and the “interviewee”. It is possible that certain researchers may have used the terms “witness” and “evidence” in their memos or work

product, but this is not an official practice of DC-Cam, which is not responsible for such uses.

Q: Are they any audio-recordings of these interviews?

A: Yes, a recording is made during the interview and someone also takes notes. Afterwards, a full transcription is made from the recording.

Q: Is there a written document summarizing DC-Cam policy regarding the collection of documents, interviewing methods...?

A: The essential information is on our website, in the Database section. There are also internal rules, mainly concerning the issues of security and the staff discipline (I can give you a copy of these internal rules). Finally, the researchers work on various topics and field missions require case-by-case preparation.

Q: The DC-Cam Mapping Project started in 1995 and led to the identification of sites relating to the Democratic Kampuchea period. This project will be the subject of precise questions in a further interview, but at this stage could you present the project briefly: Who conducted it? How was the project financed? Could you indicate the dates of the project, its objectives and the means used to reach them? Is there any internal written policy explaining the methodology used by DC-Cam to conduct the “DC-Cam mapping project”? If yes could you provide us with a copy? If no document exists explaining the methodology used, could you explain it to us?

A: This project includes a certain number of documents that have all been given to the Co-Prosecutors. It was comprised of three parts: identification of prisons, mass graves and memorials; analysis of the collected elements; and, finally, exhumations, but the final part remained at the project stage. The first part was set up with the help of the Universities of Yale and New South Wales. It was based on three sources: the exhumations organized in 1982 and 1983 by the Cambodian government with the help of two Vietnamese experts (one is dead but I should be able to find the address of the other); the report of each district about executions; and, finally, the Renakse petitions. I note that for each site we conducted a number of interviews in order to confirm the conditions of discovery.

I am ready to answer any other detailed questions by your investigators. It is an enormous project and you must concentrate your questions on certain specific points. Furthermore, I wrote an article in English on this topic, which I will give you.

Generally, I would like to say that the investigators need to be cautious in their use of the documents, because I have noted certain mistakes: for example, some people believe that certain confessions exist only at Tuol Sleng whilst other confessions are held at DC-Cam.

In conclusion, I would like to say that I have been working on these issues since 1987 and that I wish the success of this Trial. I believe in this trial and I am ready to contribute to the extent of my possibilities and availability, but I also want to maintain the independence of DC-Cam; that's the reason I have not returned to the Court for three

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years. I believe it is important that research and educational work also be recognized as fundamental.

The original of the recording was placed under seal in the presence of the witness and signed by us, the greffier and the witness.

A copy of the Written Record was given to the witness;

At 12.50 p.m., we asked the greffier to read out the record to the witness as recorded.

After the Written Record was read out to the witness, the witness had no objections and signed it.

Witness

Interpreter

Greffier

Co-Investigating Judges