

~~លេខ/No. D227~~



ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation-Religion-King

អង្គជំនុំជម្រះវិសេសវិសេសសាលាដំបូងក្នុងតុលាការកម្ពុជា

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 reception): 27 / 10 / 2009
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កំណត់ហេតុនៃការសួរចម្លើយ

Written Record of Interview of Charged Person

On the twenty first of October, two thousand and nine at 9:20 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 ហែល** and **Mr Ly Chantola លី ច័ន្ទតុលា** 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 អ៊ូចចាន់ណូរ៉ា**, as sworn interpreter of the Extraordinary Chambers,

Interviewed the Charged Person identified below:

Name: **Kaing Guek Eav កាំង ហ្គេកអ៊ាវ** alias **Duch ដុច**, 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.

ឯកសារបានថតចម្លងត្រឹមត្រូវតាមច្បាប់ខ្មែរ
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME
ថ្ងៃ ខែ ឆ្នាំ នៃការបញ្ជាក់ (Certified Date /Date de certification): 27 / 10 / 2009
មន្ត្រីទទួលបន្ទុកសំណុំរឿង /Case File Officer/L'agent chargé du dossier: 1 CA. Juy

~~២២២/No: D227~~

The Co-Prosecutors of the Extraordinary Chambers, Mr William Smith – Acting International Co-Prosecutor – and Mrs Chea Leang ជា ណាង, were duly notified of this interview by Notification Letter dated 7 October 2009:

- Mrs Chea Leang ជា ណាង is represented by Mr Pich Sambath ព្រះសិប្បក្រិ, Senior Assistant Co-Prosecutor,
- Mr William Smith is represented by Mr Vincent de Wilde d'Estmael, Senior Assistant Co-Prosecutor.

Messrs Kar Savuth ការ សាវុត្ត and Francois Roux, Co-Lawyers for the Charged Person, who were duly informed of this interview by Summons, dated 7 October 2009, and were able to examine the case file from that date, were both present.

Interview

Question by the Representative of the Co-Prosecutors, Mr Vincent de Wilde d'Estmael: Yesterday, the Charged Person indicated that, even after 15 August 1977, confessions continued to be passed on to SON Sen ស៊ុន សែន, although he was at the front. How was this organised?

Reply by the Charged Person: After 15 August 1977, I never delivered any confessions directly to SON Sen ស៊ុន សែន. As I explained yesterday, SON Sen ស៊ុន សែន called me once in a while but I dealt essentially with NUON Chea ឡួន ជា, whom I saw every four or five days. It is only since I gained access to the case file that I have observed that SON Sen ស៊ុន សែន continued to annotate confessions after 15 August 1977. I suppose that these confessions were not delivered to him at the front but rather that they were kept at 870 and that SON Sen ស៊ុន សែន examined them when he returned to Phnom Penh. Indeed, as a member of the military committee, he reported to POL Pot ប៉ុល ពត on the military situation at the front and it is probably on these occasions that POL Pot ប៉ុល ពត would consult him on security issues.

Question by the Representative of the Co-Prosecutors, Mr Vincent de Wilde d'Estmael: After 15 August 1977, in what capacity did SON Sen ស៊ុន សែន intervene? Can we say that he was still your superior or was he acting in his capacity as head of a unit?

Reply by the Charged Person: I would like to recall that, after 15 August 1977, I met SON Sen ស៊ុន សែន only once, on the occasion of the annual education seminar. I have no recollection of the exact date of the seminar. It seems to me that it had been scheduled for

~~ករណី/No: D227~~

July, but then postponed to a later date. It could not have taken place in September because at that time POL Pot ប៉ុល ពត had gone to China for a month, but I think that the training course was organised after POL Pot 's ប៉ុល ពត return and after the training of centre cadre by POL Pot ប៉ុល ពត. So that was probably in October. I recall that comrade PIN, the new secretary of division 703, came in a wheelchair because he had been wounded a short time beforehand (his car had been blown up by a mine). The training was, thus, intended for cadre at the battalion, regiment and brigade level, except for MEAS Mut មាស មុត and SOU Met ស៊ី ម៉ែត, who were centre cadre.

Following this seminar, SON Sen សុន សែន summoned me to an office in the Olympic Stadium and ordered me to gather all of the confessions implicating enemies. He also ordered the zone secretaries to gather any documents implicating enemies. I drafted a document on the enemy network opposing the revolution; this document has not been found. However, another document written by PON ប៉ុន at my request has been found and constitutes a "summary report of the networks of traitors". This document¹ was presented by David Chandler in his book about S 21 as an "Ultimate Plan" which I am supposed to have drafted. In reality, PON ប៉ុន drafted it upon my orders. The document did not yet have a title, but ING Pech ឥង ប៉ិច, the first chairman of the Toul Sleng ទួលស្តែង museum, wrote on top of the first page "S-21 Summary report". The report was given to me by the Co-Prosecutors in Case File 001. (Note: we have annexed the abovementioned document at the end of the written record)

Reverting to the initial question: all of this demonstrates that SON Sen សុន សែន still considered himself to be my superior and I acted the same way. The fact that he called me to the training session, that he asked me to draft this document and that he continued to deal with security issues by calling me, demonstrate this.

As for NUON Chea ឆ្លាន ជ័រ, he was my great leader, by which I mean to say, the superior of my superior, just as I have previously explained.

Question from the Co-Investigating Judges: The confessions of Sieng Pauy សៀង ប៉ូយ alias Sean² ស៊ាន and Nheum Sim ញឹម ស៊ឹម alias Saut³ ស្ងួត both have annotations on the front page showing that "a copy of the confession was sent to Brother NUON ឆ្លាន". Both also contain interrogator's notes specifying that torture was used on these prisoners to extract responses. The interrogator of Sieng Pauy សៀង ប៉ូយ alias Sean ស៊ាន explained that initially the prisoner "did not confess", but that "once I started torture, he confessed

¹ ERN 00285361-00285393.

² IS: ERN: 00005357-00005374 and colour scan D43/IV annex 76 or 82.

³ IS ERN: 00017250-00017271 and colour scan D43/IV annex 14 ERN 00173918-00173921.

~~លេខ/No: D227~~

about his systematic contacts, activities and plans right up to the time the Organization arrested him". The interrogator of Nheum Sim ញឹម ស៊ីម alias Saut ស្ងួត similarly noted: "Initially, I interrogated about his biographical origins and the overt aspects of his situation. It was only after I tortured him that he confesses to the story of having been a police informer and a CIA systematically right up to the time of his arrest".
To whom were these documents sent? Who made the annotations on the cover page?

Reply by the Charged Person: In principle, all S-21 documents were read and annotated by me. However, there were times when I did not have time to do so, and the documents were delivered to my superiors without annotations. That is the case for these documents. The first document (confession of Sieng Pauy សៀង ប៊ុយ) shows an annotation on the top right corner "Two copies to brother NUON ឡួន", on the top left, "9/11/77" and below that "Northwest". These annotations were made by SON Sen សុន សែន. I note that concerning the reference to the "Northwest" the handwriting appears to be different, but in my opinion it was still SON Sen's សុន សែន writing, perhaps he wrote more quickly and took less care for that annotation. In any event, I have no doubt that these annotations could not have been made by anyone but SON Sen សុន សែន.

As for the second document (NHEUM Sim ញឹម ស៊ីម) it displays a mention "Central Zone, one copy to Brother NUON ឡួន, 11/11/77". These annotations are in the handwriting of SON Sen សុន សែន.

Question from the Co-Investigating Judges: How is it that SON Sen សុន សែន wrote these annotations in November 1977, since you explained to us that, by that time the confessions were delivered directly to NUON Chea ឡួន ជា.

Reply by the Charged Person: I wish to say that when I met with NUON Chea ឡួន ជា every four or five days, I never handed any confessions to him directly. Toeung ទៀង or Chiv ជីវ were the ones who picked them up and transported them. In fact, the same method was used when confessions were transmitted to SON Sen សុន សែន. At that time, Phn ផន and Noeun ឡើន were in charge of delivery. Therefore, as I explained to you earlier, I suppose that the confessions were kept at 870, and that SON Sen សុន សែន read them when he came to the office. My impression is that SON Sen សុន សែន would make decisions and produce summary reports concerning Central Zone army personnel, but that regarding other military units, he did not have decision making power given his

~~២២២/No: D227~~

hierarchical status and that he had to pass on these confessions to NUON Chea ឆ្លាន ជាំ. In fact, NUON Chea ឆ្លាន ជាំ did not have the time to take all of the decisions and it was the responsibility of the individual zones. This was an implementation of the decision of 30 March 1976.

Suspension of the interview at 11h20

At 14h10 on the same day, we continued the interview.

Question from the Co-Investigating Judges: What you have just explained is not very clear when we compare it to what you said yesterday regarding the distribution of roles between NUON Chea ឆ្លាន ជាំ, POL Pot ប៉ុល ពត and SON Sen សុន សែន. Yesterday you stated that POL Pot ប៉ុល ពត had designated NUON Chea ឆ្លាន ជាំ to decide on the smashing of enemies, that NUON Chea ឆ្លាន ជាំ was SON Sen's សុន សែន superior, that decisions were adopted on a consensus basis, that is to say by POL Pot ប៉ុល ពត, and NUON Chea ឆ្លាន ជាំ would ensure the implementation of these decisions. Please clarify.

Reply by the Charged Person: You need to make a distinction between theory and practice. Theoretically speaking, the separation of powers was organised through the decision on 30 March 1976. The distribution of roles in terms of smashing enemies was organised between the zone secretaries, the heads of the Office 870 committee and the independent sectors and the general staff secretary (the two exceptions being the ministry of foreign affairs and the ministry of the economy, for which nothing was provided in terms of security). Practically speaking, all power was centralised in POL Pot's ប៉ុល ពត hands. Thus, for example, the zone secretaries had the power to carry out arrests and executions, but if they used this power wrongly they were liable to be immediately arrested themselves. This is what happened in the case of Kâng Chab កង ចាប, who was the Secretary of the New North Zone (801). He carried out arrests as set out in document D43/IV (00173883) that you included with the written questions that you gave me and which I have not yet answered. The document addresses confessions to the attention of Office 870; it is annotated by NUON Chea ឆ្លាន ជាំ and dated 19 April 1978. But as KHIEU Samphan ខៀវ សំផន explained during his first appearance in court, Kâng Chab កង ចាប himself was arrested on the day he arrested the sister and brother of KHIEU Samphan's ខៀវ សំផន wife.

Question from the Co-Investigating Judges: The 24 March 1978 "confessions" of KHUON Son ឃ្លួន សុន alias Koem Phan⁴ កឹម ផាន, a Division courier from Sector 23,

⁴ D43/IV, annex 79, ERN 00174858-00174859.

~~២៧៩/No: D227~~

East Zone, who was arrested on 15 March 1978 and executed on 11 April 1978⁵, have an annotation on the coversheet signed by you, dated 27 March 1978, and addressed to "Brother". It reads "*Dear Brother: This contemptible individual went into brother Pine's ព័ន្ធ office at midnight in an attempt to launch a grenade attack. [I have already] reported to Angkar ..., and this confession does not contain so much detail this time. This contemptible individual only confessed that he was the messenger relaying his superiors' messages to both Brother Yuon and Brother Khmer. Respectfully Yours,*" Another annotation says: "*Two copies of this document had already been delivered to Brother 89.*" The coversheet also has other annotations "*to be kept as a document*" and "*28/3/78*". Can you identify "*Dear Brother*" and "*Angkar*" in this context, who Brother 89 was, who authored the other annotations?

Reply by the Charged Person: This confession is that of a messenger from the East Zone who wanted to attack Pine ព័ន្ធ (I spoke of Pin this morning, mentioning that his car had been blown up by a land mine). I wrote, in red, the note below the typed heading of this confession; I specified that two copies of this confession had been given to SON Sen សុន សេន, that is to say Brother 89, on 27 March 1978. I transmitted it to NUON Chea ឡួន ជា on the same day ("*Dear Brother*"). NUON Chea ឡួន ជា is the one who made the annotation on the bottom left hand side "*to be contacted: 27/3/78*". I don't understand clearly what that note means, which seems to indicate that certain people were in charge of solving the problem, but I don't know who that might have been. As for the mention "*to be kept in the archives*" which is located on the top left hand corner, this is also written by NUON Chea ឡួន ជា, because the principle was that no one could annotate a document which had already been annotated by a superior. Therefore, in this case POL Pot ប៉ុល ពត alone would have had authority to write on the same page as NUON Chea ឡួន ជា and this is not POL Pot 's ប៉ុល ពត handwriting, but that of NUON Chea ឡួន ជា.

As for the reference to "Angkar" in this case, it means NUON Chea ឡួន ជា and SON Sen សុន សេន.

Question from the Co-Investigating Judges: We are showing you the confession of BIN Ban ប័ន ហ៊ាន alias Bo⁶ ប៉ូ. The coversheet of the confession (ERN 00174222), dated 4 August 1977, contains an annotation, in red, reading "*1) Confidential 2.) For brother only.*" At pages 44-45 (ERN 00174262-00174263), there is a handwritten summary of the main points extracted from the confession, dated 7 September 1977, that were sent to "brother". The summary specifically mentioned the names of "*traitors*" in the East Zone such as comrade Chăn ចាន់, who was deputy secretary of the East Zone, Lin លីន, Mon ម៉ុន

⁵ D/36 Annex A and D43 Annex B ERN 00171429-00171798 Entry 3770.
⁶ D32/IV, D43/IV Annex 52 ERN 00174219-00174286.

~~២២២/No: D227~~

and Mey Phau ម៉ី ផ្លូ.⁷ Do you know who wrote the annotations on the coversheet? Who is "brother" in this context? Who wrote the summary inside the confession? Who was "brother" in this context?

Reply by the Charged Person: I personally wrote the letter "S" in a circle (which means secret) and which is on the left of the coversheet. The rest of what is written in red "*confidential for Brother only*" was written by SON Sen សុំន សែន. The "brother" in question was POL Pot ប៉ុល ពត (had he been writing to NUON Chea ឡុន ជា he would have written Brother Nuon ឡុន). The entire text presenting a summary, dated 7 September 1977 (ERN 00174262 -00174263), was written by SON Sen សុំន សែន and is addressed to POL Pot ប៉ុល ពត.

Question from the Co-Investigating Judges: We have examined the four "confessions" of Division 164 Deputy Secretary, Hang Doeun ហង់ ទៀន alias Doem ឌឹម, drafted in May-August 1977⁸, following his arrest on 21 April 1977⁹. The earliest, dated 3 March 1977, has one annotation reading "*1) Doem ឌឹម is a deputy secretary of comrade Mut's មុត Division... To brother to be informed. About the plan, it is followed. Though some are the right people, some others, whom I have known, are not. I will invite comrade Mut មុត to check this together. 2) He implicated the despicable "Tor ទ" in a previous confession. It is being transcribed from the tape. 8 May 1977*". On page 00174384 there is another annotation which reads "*Strictly Confidential*" and "*Note: this document is strictly confidential because it is related to the East. It cannot be sent to the base except it is summarized first.*" On page 00174385 there is a note "*1.) already summarised 2.) already sent to Angkar*" and "*summary of Doeun's handwritten confession dated 8 July 1977*". Can you identify the authors of all these annotations and comments?

Reply by the Charged Person: The first document (ERN 00174375) was annotated by SON Sen សុំន សែន and addressed to POL Pot ប៉ុល ពត. I am not the author of these notes (I could not use the term "comrade Mut មុត" given his rank and age, he was senior to me). The second confession (ERN 00174384) is also entirely annotated by SON Sen សុំន សែន, except for the "S", which is circled, which I wrote and which means "secret".

As for the third document (ERN 00174385), it is annotated in red by PON ប៉ុន who wrote: "*summary of Doeun's handwritten confession dated 8 July 1977*". The blue annotation on

⁷ [we translate- there is no English translation in case file].

⁸ DV43/IV Annex 57 OERN 00174375-00174391.

⁹ D/36 Annex A and D43/Annex B ERN 00171429-00171798 Entry 2570.

~~លេខ/No: D227~~

the upper right corner "1) already summarized, 2) already sent to Angkar, 24 August 1977", seems a bit odd to me. I interpret it as meaning that this might relate to the last summary; that is to say that the prisoner had confessed fully. Here it seems to me that it is SON Sen's សុន សែន handwriting, in any case it is not NUON Chea's ឆួន ជា handwriting, and only they could annotate S-21 confessions in this way.

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.

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

At 4h05 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.

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