



ថ្ងៃ ខែ ឆ្នាំ ថ្ងៃការបញ្ជាក់ (Certified Date/Date de certification):

21 / 12 / 2009

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé
du dossier: Uch Arun

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

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du dossier: Uch Arun

កំណត់ហេតុនៃការស្រុះស្រួល

Written Record of Interview of
Charged Person

Procès-verbal d'interrogatoire

On the Sixteenth of December, two thousand and nine 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 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 Rules 55 and 58 of the Internal Rules of the Extraordinary Chambers,

With M. OUCH Channora (អ៊ូច ចាន់ណុរ៉ា) and Bell Sak Pheakdey (បែល សក្កិភក្តី), as
sworn interpreters of the Extraordinary Chambers,

Interviewed the Charged Person identified below:

Name Ieng Sary អៀង សារី, male, born on 24/October/1925,

Charged with Crimes Against Humanity and Grave Breaches of the Geneva Conventions
of 12 August of 1949, offences defined and punishable under 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 Andrew Cayley and Mrs Chea
Leang ជា ណាង, were duly notified of this interview by Notification Letter, dated 26
November, 2009:

- Mrs Chea Leang ជា លាង is represented by Tan Senarong តាន់ សេណារ៉ុង, deputy co-prosecutor
- Mr Andrew Cayley is represented by Mr. Anees Ahmed, deputy co-prosecutor

Mr ANG Udom អាង ឧត្តម and Mr Michael G. KARNAVAS , Co-Lawyers for the Charged Person were duly informed of this interview by Summons, dated 26 November, 2009, and were able to examine the case file from that date. Mr ANG Udom អាង ឧត្តម is present and Mr Michael G. KARNAVAS is absent.

Interview

Statement of the Co-investigating judges:

1. On 20 November 2009, pursuant to a request of the Co-prosecutors¹, we issued an Order² in which we endeavored to clarify the interpretation of the provisions of the Internal Rules with respect to charging. In particular, we outlined that, during the “charging process”, the notification of the “charges” includes specifying the legal characterization of the facts, bearing in mind that legal characterizations are always provisional at the judicial investigation stage. We also indicated that we have the obligation to make a decision, in the Closing Order, with respect to each of the facts of which we have been validly seized, either by issuing an indictment or by dismissing the case³.
2. This interview has been organized in application of these principles and, as the investigation is coming to an end, with a view to notifying you of the charges for which you may be indicted, bearing in mind that, “*whereas the Co-Investigating Judges may not indict a person for facts in relation to which he or she has not first been charged, the fact that charges have been laid does not affect the discretion of the Co-Investigating Judges to issue an indictment or dismiss the case at the Closing Order stage*”⁴.
3. Pursuant to the Introductory Submission and subsequent Supplementary Submissions we are in the final stages of our investigation into the facts of which we have been seized and your responsibility for any crimes that may have been identified at this stage.
4. Following a review of the evidence of the co-operatives and worksites, security centers and execution sites, the incidents of displacement of persons and the treatment of specific groups including Chams, Vietnamese, Buddhists and other targeted groups, we consider that there is clear and consistent evidence that acts constituting crimes against humanity, grave breaches of the 1949 Geneva Conventions, crimes of genocide, and national crimes were committed.

¹ Co-Prosecutors' Request for clarification of charges, 4 September 2009, D198.

² Co-Investigating Judges Order on Clarification of Charges, 20 November 2009, D198/1.

³ *Ibid* par. 10.

⁴ *Ibid* par. 10.

5. At this stage of the investigation, we also consider there is clear and consistent evidence that, between 17 April 1975 and 6 January 1979 you, under the name Ieng Sary or various aliases including Brother Van, were a senior leader of Democratic Kampuchea or a person most responsible for the crimes within the jurisdiction of the ECCC, in the following conditions.
6. In your roles as full member of the Communist Party of Kampuchea (“CPK”) Central and Standing Committees you took part in the creation, implementation or coordination of CPK policies which led to the displacement of persons, establishment and operation of cooperatives and worksites, establishment and operation of security centers and execution sites, and to the mistreatment of civilians including Chams, Vietnamese, Buddhists or other targeted groups. Further, in these roles, you would meet and associate with other senior political and military leaders of the CPK, members of the Zone and Sector Committees, and military commanders; and visit various ministries and other organisational units of the Centre. At these meetings, and through the receipt of telegrams, reports, S21 confessions or other communications, and by visiting worksites and other places around Cambodia, you were kept apprised of the situation in Phnom Penh, throughout Cambodia and in particular along its borders including the way in which CPK policies were being created, disseminated and implemented.
7. In your role of Deputy Prime Minister for Foreign Affairs and through your membership of the CPK Central and Standing Committees you played a key role in the recall of intellectuals and diplomats from overseas, many of whom were deprived of their liberty or executed upon their return to Cambodia. You exercised authority or effective control over the Ministry of Foreign Affairs, its embassies, and subordinate units during the time that members of your staff were arrested and sent for re-education or to S21. You received the confessions of persons who had worked both in and outside the Ministry of Foreign Affairs and who had been detained, interrogated, and executed at S21. You took part in the promotion and dissemination of CPK policy both nationally and internationally, including at the United Nations.
8. You participated in the creation, implementation, coordination and dissemination of CPK policy related to the international armed conflict with Vietnam which involved acts constituting grave breaches of the 1949 Geneva Conventions.
9. In light of the above, we confirm the charges that you were notified of at your initial appearance and, following a review of the evidence, we now consider that additional charges are warranted. Accordingly, you are charged, through your acts or omissions, for:
 - planning;
 - instigating;
 - ordering;
 - committing;
 - aiding and abetting;

- conspiring;
- participating;
- attempting;
- in accordance with the provisions of our order on “Joint Criminal Enterprise”⁵, being one of a plurality of persons who contributed to a common plan which involved or amounted to the commission of one or more crimes, or,
- being responsible by virtue of superior responsibility;

for the following crimes:

10. CRIMES AGAINST HUMANITY

- Murder
- Extermination
- Imprisonment
- Enslavement
- Deportation
- Torture
- Rape
- Persecutions on political, racial or religious grounds
- Other Inhumane Acts

Offences defined and punishable under Articles 5, 29 (New) and 39 (New) of the ECCC Law.

11. GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949

- Willful killing
- Torture or inhumane treatment
- Willfully causing great suffering or serious injury to body or health
- Destruction and serious damage to property, not justified by military necessity and carried out unlawfully and wantonly
- Willfully depriving a prisoner of war or civilian the rights of fair and regular trial
- Unlawful deportation or transfer or confinement of a civilian

Offences defined and punishable under Articles 6, 29 (New) and 39 (New) of the ECCC Law.

12. GENOCIDE of Chams and Vietnamese.

⁵ Order on the application at the ECCC of the Form of Liability Known as Joint Criminal Enterprise 8 December 2009, D97/13.

Offences defined and punishable under Articles 4, 29 (New) and 39 (New) of the ECCC Law.

13. Furthermore, taking into account the findings of the Pre-Trial Chamber in the Decision on Appeal Against the Closing Order Indicting Kaing Guek Eav alias “Duch”⁶ and pending the decision of the Trial Chamber on these matters, we notify you that you are also charged with the following crimes:

NATIONAL CRIMES

- Homicide
- Torture
- Religious persecution

Offences defined and punishable under Articles 3 (New), 29 (New) and 39 (New) of the ECCC Law and articles 209, 210, 500, 501, 503, 504, 505, 506, 507 and 508 of the 1956 *Penal Code*.

In light of these notifications do you wish to make any observations or do you prefer to exercise your right to remain silent?

The Charged Person

I wish to exercise my right to remain silent.

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 9:31am., 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.

ជនគ្រោះទោន	មេធាវី	សហព្រះនរណជន	អ្នកបកប្រែ	ក្រុមឧបត្ថម្ភ	សហចៅក្រម
Charged person	ជនគ្រោះទោន	Co-Prosecutors	Interpreters	Greffiers	ស៊ើបអង្កេត
	Lawyer for Charged person				Co-Investigating Judges

⁶ Decision on Appeal Against Closing Order Indicting Kaing Guek Eav alias Duch D99/3/42, Case File 001/18-07-2007, pars. 55-88.