

-អវខ/No:D225-



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

ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation-Religion-King

ឯកសារទទួល

DOCUMENT RECEIVED/D'OCUMENT REÇU

ថ្ងៃ ខែ ឆ្នាំ (Date of receipt/date de reception):

27 / 10 / 2009

ម៉ោង (Time/Heure) : 14:00

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

កំណត់ហេតុនៃការសួរចម្លើយ

Written Record of Interview of
Charged Person

On the twentieth of October, 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 ហ៊ែល 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 ECCC Internal Rules,

With OUCH Channora អ៊ូចចាន់ណុរ៉ា as sworn interpreter of the Extraordinary Chambers,

Interviewed the Charged Person identified below:

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

ឯកសារបានថតចម្លងត្រឹមត្រូវតាមច្បាប់ដើម

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

27 / 10 / 2009

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

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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 William Smith – Acting International Co-Prosecutor – and Mrs Chea Leang ជា លាង, were duly notified of this interview by Notification Letter dated 7 October 2009:

- Mrs Chea Leang ជា លាង is represented by Mr Pich Sambath ពៀងសម្បត្តិ, Senior Assistant Co-Prosecutor,
- Mr William Smith is represented by Mr Vincent de Wilde d'Estamael, 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 8 October 2009, and were able to examine the case file from that date, are both present.

Interview

Question from the Co-Investigating Judges: On 6 March 2009, we gave you a list of written questions broken down into 2 parts (D121/2); the first part related to certain confessions and the second part related to the identification of people whom you had mentioned during previous interviews. You answered the second part in writing, but did not answer the first part. When will you be able to answer?

Charged Person's Response: I believe that I will be able to provide my answers to you on 20 November 2009. I noted that this deadline is final.

Question from the Co-Investigating Judges: You have identified NUON Chea ឡាន ជា as being Number 2 in the party hierarchy, holding the position of Deputy Secretary of the Communist Party of Kampuchea. Was he a member of any other party committees? What were his exact responsibilities?

Charged Person's Response: I confirm that NUON Chea ឡាន ជា was the Deputy First Secretary of the CPK. Under the 9 October 1975 decision (K_ERN 00019108–00019126; E_ERN 000183393–000183408), POL Pot ប៉ុល ពត nominated NUON Chea ឡាន ជា as the

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person to oversee 4 ministries: the Ministry of Propaganda (the Secretary of which was HOU Nim ហ៊ុំ នីម), the Ministry of Education (the secretary of which was Yun Yat យុន យ៉ាត), the Ministry of Social Affairs (IENG Thirith អៀង ធីរិទ្ធ) and the Ministry of Culture (I don't remember who was the minister). The Secretaries who oversaw these ministries were not full rights members of the Central Committee so therefore they did not have the decision-making power to eliminate people.

Question from the Co-Investigating Judges: Point 9 of the 9 October 1975 decision states that comrade Phea ភី was in charge of Culture, Foreign Affairs, and Social affairs?

Charged Person's Response: I can only repeat that I never met the person in charge of the culture ministry. In fact, I was never aware of the existence of that ministry.

Question from the Co-Investigating Judges: The same 9 October 1975 decision specified that NUON Chea ឡាន ជ៉ា was responsible for the "work of the party"?

Charged Person's Response: This meant daily activities within the party. I recall that the political work of the party was focused on annual training sessions (political and psychological training and education on organizational matters), the recruitment and appointment of new members, the appointment of cadre and the naming of members to various positions. I wish to add that when certain persons were appointed or promoted this meant that others were excluded and therefore smashed.

With regard to the four ministries mentioned earlier, POL Pot ប៉ុល ពត had thus appointed NUON Chea ឡាន ជ៉ា to make decisions with regard to the smashing of enemies. The 9 October 1975 decision specified that security was entrusted to SON Sen សុំន សែន. In this field, NUON Chea ឡាន ជ៉ា was the hierarchical superior of SON Sen សុំន សែន. The minutes of the 9 October 1975 meeting specified that decisions had to be adopted by "consensus", which meant that they were made by POL Pot ប៉ុល ពត. I was able to observe that NUON Chea ឡាន ជ៉ា had knowledge of the decisions made by POL Pot ប៉ុល ពត and that he was in charge of their follow-up. SON Sen សុំន សែន must have analyzed situations and then requested POL Pot's ប៉ុល ពត decision. All of the confessions annotated by SON Sen សុំន សែន prove this, whether before 15 August 1977 or afterwards. After SON Sen សុំន សែន left for the front on 15 August 1977, he continued

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to call me from time to time. The main difference was that I met NUON Chea ឡាន ជ័រ every four to five days. SON Sen ស៊ុន សែន was still in contact with me, but more rarely – only once every two weeks to a month. In fact, during the Democratic Kampuchea period, all the S-21 confessions went through me. I would annotate them and pass them on to SON Sen ស៊ុន សែន. However, it is only since I have had access to the case file that I have become aware of SON Sen's ស៊ុន សែន annotations and those of his superiors. Now I understand better how everything worked.

I would like to take the example of LONG Muy ឡុង មុយ alias Chuon's ជួន ច័ន្ទ confession.¹ It appears that I sent this confession to SON Sen ស៊ុន សែន, who then sent it to POL Pot ប៉ុល ពត. He sent it back to SON Sen ស៊ុន សែន, who carried out POL Pot's ប៉ុល ពត decision later, on 11 November 1977. From memory, I would say that the confession was examined by SON Sen ស៊ុន សែន on 17 October 1977. The confession can be found in the book called "History of Democratic Kampuchea", by DY Khamboly ឌី ខាំបូលី.

Another example is KUNG Kieng គង់ កៀង alias ING Vet's ឡុង វ៉េត confession² (secretary of battalion 631, 63rd regiment, 164th division): I forwarded the document to SON Sen ស៊ុន សែន on 21 May 1977. He annotated it on 23 May 1977, writing "*to the attention of brother NUON ឡាន ជ័រ personally, secret. (1) This document is very clear; (2) The majority of the persons implicated are in the unit of comrade MUT មុត, another part is in 33 and 35.*" NUON Chea ឡាន ជ័រ wrote in the margin, on a date which is not legible, in May 1977: "*already noted for the attention of Comrade Mok ម៉ុក .*" These documents show that SON Sen ស៊ុន សែន requested the advice of NUON Chea ឡាន ជ័រ prior to making his decision.

Question from the Co-Investigating Judge: According to certain statements by IENG Sary ឡែង សារី, there was a Center military committee. In September 1996, the Documentation and Research Center of IENG Sary's ឡែង សារី Democratic National Union Movement wrote that there was a secret security committee within the military

¹ D108/52/3 ERN 00204310.

² ERN 00017305.

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committee of the central committee and that this secret committee was presided over by NUON Chea ឡាន ជា, with SON Sen សុន សែន and YUN Yat យុន យ៉ាត as members, the latter as an "advisor" to her husband. This research document maintains that POL Pot ប៉ុល ពត, NUON Chea ឡាន ជា, SON Sen សុន សែន and YUN Yat យុន យ៉ាត took all the decisions regarding executions and massacres, but that [these killings] were also decided by a number of members of the standing committee who were also members of the security committee or zone secretaries, such as TA Mok តាម៉ុក or SAO Phim សោ ភឹម. It also states that VORN Vet វ៉ែន វ៉ែត was temporarily placed in charge of security instead of SON Sen សុន សែន when the latter left for the front (ERN 00081213–00081222). When IENG Sary អៀង សារី was asked for explanations regarding this document, in 1996, he stated that in reality there was only one committee in charge of military and security matters, the committee being composed of POL Pot ប៉ុល ពត, NUON Chea ឡាន ជា, SON Sen សុន សែន, SAO Phim សោ ភឹម and TA Mok តាម៉ុក, but that, in practice, the work of the committee was organized by POL Pot ប៉ុល ពត, NUON Chea ឡាន ជា and SON Sen សុន សែន with the help of YUN Yat យុន យ៉ាត. IENG Sary អៀង សារី also added that, although SAO Phim សោ ភឹម and TA Mok តាម៉ុក had been nominated as members of the military committee, *"it was as if they were not there at all"*.³ What do these statements bring to your mind?

Charged Person's Response: IENG Sary's អៀង សារី statements are not in good faith. Yun Yat យុន យ៉ាត was not an important person and when IENG Sary អៀង សារី talks of SON Sen សុន សែន being replaced by VORN Vet វ៉ែន វ៉ែត, that is a lie. I was very close to VORN Vet វ៉ែន វ៉ែត and I can say that he was not involved in security matters at all. I have never seen any document regarding security that was signed by VORN Vet វ៉ែន វ៉ែត. He only came to see me once upon NUON Chea's ឡាន ជា orders, to bring me the decision of the standing committee to arrest Pâng ប៉ង់. As I have already explained, the two people responsible for arresting Pâng ប៉ង់ were Hor ហ៊ី and myself. So this was the only time

³ ERN 00062452 – 00062509, ERN 00003660 - 00003669

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VORN Vet វ៉េត វ៉េត intervened, upon NUON Chea's ឡូន ជ័រ written order; previously it had been Pâng ប៉ង់ who brought me decisions of the standing committee and, after his arrest, Line លីន. In short, I have never heard of this secret committee. Only IENG Sary ឿង សារី speaks of it.

Regarding the military committee, I can say the following: prior to 17 April 1975 and in the following months, all military personnel were under the control of the zones. Around September 1975 (the documents are not clear as to the precise date) POL Pot ប៉ុល ពត regrouped the entire military under the leadership of the Centre. Certain divisions were selected by POL Pot ប៉ុល ពត to constitute the Centre military. It was at that time that the Centre military committee was created, prior to 9 October 1975, given the responsibilities attributed to SON Sen សុន សែន in the decision taken on that day.

I wish to add that NUON Chea ឡូន ជ័រ stated: "*the military committee was made up of POL Pot ប៉ុល ពត, chairman, SON Sen សុន សែន and TA Mok តាម៉ុក deputy chairmen, SAO Phim សោ ភឹម and Kè Pork កែ ពក, members.*"⁴ Personally, I consider that the Secretary of the military committee was POL Pot ប៉ុល ពត, the deputy Secretary was NUON Chea ឡូន ជ័រ and the members were TA Mok តាម៉ុក, SON Sen សុន សែន and Kè Pork កែ ពក. How did I reach this conclusion? Because POL Pot ប៉ុល ពត, NUON Chea ឡូន ជ័រ, TA Mok តាម៉ុក and SON Sen សុន សែន never trusted SAO Phim សោ ភឹម. I know that NUON Chea ឡូន ជ័រ was aware of everything including military affairs. Indeed, one day someone from the Central Zone said in his confession that Kè Pork កែ ពក had betrayed by stocking arms in Kampong Cham កំពង់ចាម province at Dey Dos ជ័យជ័យ Pagoda. I made my report to NUON Chea ឡូន ជ័រ and he replied that Kè Pork កែ ពក had not betrayed, since the decision to stock the arms had been made by POL Pot ប៉ុល ពត.

Observations by Defence Counsel: We must inform you of our reservations concerning our client's situation, since he is making declarations in case file 2 concerning the Democratic Kampuchea chain of command, whereas his declarations on the same subject

⁴ D20, ERN 00018744

at trial in case No.1 are being contested by the prosecution. The Defence will make written observations on this subject.

- ☒ 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 11:56 a.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	ក្រឡាបណ្ឌិត	សហចៅក្រម
Charged person	ជនគ្រូតបោន	Interpreters	Greffiers	ស៊ើបអង្កេត
	Lawyers for Charged person			Co- Investigating Judges