

លេខ/No: D121



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
លេខស៊ើបសួរ/Investigation
លេខ/No: 002/19-09-2007-ECCC-OCIJ

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Kingdom of Cambodia
Nation-Religion-King

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DOCUMENT RECEIVED/DOCUMENT REÇU	
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កំណត់ហេតុនៃការសួរចម្លើយ

Written Record of Interview of Charged Person	
កម្រិតចម្លងត្រឹមត្រូវតាមច្បាប់ CERTIFIED COPY/COPIE CERTIFIÉE CONFORME	
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On the twenty-eighth of November, two thousand and eight at 9:05 a.m.

Marcel Lemonde, Co-Investigating Judge 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 Court of Cambodia, dated 27 October 2004 (the "ECCC law"),

Noting Rule 58 of the Internal Rules of the Extraordinary Chambers,

With OUCH Channora អ៊ូចចាន់ណូរ៉ា and TANHEANG Davann តាន់ហ៊ីង ដាវ៉ាន់, as sworn interpreters of the Extraordinary Chambers,

Interviewed the Charged Person identified below:

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

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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 French language.

The Co-Prosecutors of the Extraordinary Chambers, Mr Robert Petit and Mrs Chea Leang ជា ណាង, were duly notified of this interview in the written record of 27 November 2008 and by Notification Letter, dated 28 October 2008:

- Mrs Chea Leang ជា ណាង was represented by Mr Pich Sambath ពេជ្រសម្បត្តិ, Senior 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 27 November 2008, and were able to examine the case file from that date, were both present.

The Charged Person: After discussion with my Co-Lawyers, I agree to have the present written record done in French.

The Charged Person: Although my Co-Lawyers were not given due notice within the period set out in Rule 58 of the Internal Rules, after discussion with my Co-Lawyers, I agree to be interviewed today and not to exercise my right to claim any procedural defect resulting from this irregularity.

The Co-Lawyers for the Charged Person: We confirm our agreement to regularise the proceedings in this way.

Interview

Questions and answers:

Question by the Co-Investigating Judge: On SAN Pau's សាន ប៉ូ confession there is an annotation in Khmer on the top right-hand side of the first page. What does it mean?

Answer by the Charged Person: It means "already", which is an abbreviation for "already read". It is NUON Chea ឡុន ជា who wrote this, undoubtedly as a simple reminder that he had already read the confession.

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Question by the Co-Investigating Judge: SAN Pau's សាន ប៉ូ functions seem to have mostly concerned economic questions rather than foreign affairs. Can you give more information on whether IENG Sary អៀង សារី was involved in economic matters and, additionally, can you tell us if the state market was under "B1" authority?

Answer by the Charged Person: The state market was the unit responsible for the supply, especially of food, for Norodom Sihanouk នរោត្តមសីហានុ, the central units, ambassadors and Chinese experts.

In this respect, it seems to me that it must have been subject to the Ministry of Foreign Affairs and not S-71, but that is an assumption on my part.

With regard to IENG Sary's អៀង សារី responsibility over economic matters, I am not in a position to answer the question.

Concerning SAN Pau សាន ប៉ូ more specifically, I do not know. I must say that I heard his name for the first time yesterday when you mentioned his confession. I do not remember who he was. It is true that his name appears on the S-21 list, but the confession was done during the final period, by which time I was not annotating the confessions anymore. The confession is short (16 pages) and was done in four days. I do not remember the interrogator whose name appears on the last page (Mân ម៉ែន or Thàn ថែន, it is almost illegible).

Question by the Co-Investigating Judge: You have explained that Nat ណាត, your predecessor at S-21, had his responsibilities progressively removed and was finally arrested while he was working at the Ministry of Foreign Affairs. Can you give us any information about this matter, the reasons for and the circumstances of his arrest? Was IENG Sary អៀង សារី involved in that decision? Was Nat ណាត detained at B1 before being transferred to S-21?

Answer by the Charged Person: I remember that two people were transferred from the General Staff to the Ministry of Foreign Affairs under the pretext of being appointed as ambassadors abroad: Nat ណាត and Teanh ទាញ. The two of them were arrested because they had made errors and because they had been implicated in confessions. I do not remember exactly what Teanh ទាញ was accused of, but for Nat ណាត I can state the following: other than being implicated in confessions, on the one hand, he was accused of old errors that had been analysed about ten years later and, on the other hand, his attitude when he left S-21. In 1967, he had left his post as director of the electricity plant in Kampong Thom without notice (I knew of this because at that time, together with him and SO Kim An ស៊ូ គីមអាន, I belonged to the mass organisation of the party); in

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addition, he was blamed for moral deviation (he had an affair with a young woman who became pregnant and then married someone else); he was jealous when MEAS Mut ម៉ាស មុត and SAM Bit សំបិត were nominated to the Central Committee in 1975. On the other hand, he had a lot of responsibilities and always seemed to want more: when he was removed from his responsibility as SON Sen's សុន សែន representative on the hospital 98 committee and his post as director of S-21, he asked to create a new interrogation centre in the North of Phnom Penh. SON Sen សុន សែន first accepted, before going back on his decision. I do not know the name of this centre (I preferred not to know about it in order not to get in trouble), but I knew of its existence because three prisoners were transferred from there to S-21 and I received the confessions that had been obtained there.

It was under these circumstances that Nat ណាត was transferred to the Ministry of Foreign Affairs. I assume that the arrest must have necessarily been decided after consulting IENG Sary អៀង សារី. I recall that Nat ណាត arrived at S-21 handcuffed at the same time as CHHAY Kim Hor គាយ គីមហ៊ី. Teanh ទាញ arrived separately.

Question by Co-Lawyer François Roux: Given the reasons for Nat's ណាត arrest, does that mean that everyone who showed initiative became suspect in the view of their superiors?

Answer by the Charged Person: It gave the impression that the person wanted to put himself forward and was hungry for additional power. The principle was that you had to await instructions from your superiors: Angkar handed out tasks. You could not refuse these tasks and you were not meant to ask for more.

Question by the Co-Investigating Judge: You explained on 15 July that when a person was arrested at the Ministry of Social Affairs and Ministry of Health, it was Lin លីន who was in charge of bringing these persons in. Do you know Lin's លីន full name?

Answer by the Charged Person: No. I can only say that he belonged to an ethnic minority and that he was the closest aide de camp to POL Pot ប៉ុល ពត.

Question by the Co-Investigating Judge: Was he under the authority of S-21 or the Ministry of Social Affairs?

Answer by the Charged Person: He was the Deputy Secretary of the S-71 Committee. He went to collect prisoners following direct orders from POL Pot ប៉ុល ពត. Later on, also

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under orders from POL Pot ប៉ុល ពត, he became very powerful, because he could work directly with Hor ហ៊ី and HIM Huy ហ៊ឹម ហ៊ុយ, without going through me.

Question by the Co-Investigating Judge: How were you informed of the arrival of arrestees from these ministries?

Answer by the Charged Person: In principle, SON Sen សុន សែន, and after that NUON Chea ឆ្លា ជា, gave me the list and I sent it to Hor ហ៊ី to prepare the arrest of the people in question. But as Lin លីន worked directly with Hor ហ៊ី, in some cases it was Hor ហ៊ី who delivered the list to me. This happened especially at the end, starting from mid-1978.

Question by the Co-Investigating Judge: Based on the S-21 prisoner lists, we note that more than 100 people were arrested at the Ministry of Social Affairs and sent to S-21, often organized as mass arrests. We present you with prisoner lists from this ministry or hospitals (ERN 00040053, 00040092, 00040202 and 00021088, annexed to the present written record). Do you remember these mass arrests and the reasons for them?

Answer by the Charged Person: These documents show that there were mass arrests, particularly in December 1978. Those arrested had been implicated in confessions. It must have been done according to the usual system, that is, the leading cadre had already been arrested, for example SEUN Phâl Kun ស៊ុន ផលគុណ alias Sou ស៊ូ (who was IENG Tirth's អៀង ធីរិទ្ធ deputy), MOK Sam Ol ម៉ុក សំអុល alias Hong ហុង (who was in charge of the malaria unit), Nuon Chea's ឆ្លា ជា two nieces, Thân ថន and Nan ណាន and their husbands (one of them by the name of Sat សាត), the last four were medical doctors. These people had been interrogated under torture and had implicated others, which lead to the mass arrests. These arrests had no other justification and no prior verification was conducted. Thus, one day I discovered that a young girl I knew, by the name of Keo កែវ, was to be arrested. I knew her family very well because I had called the whole family to work with me in 1973 (her brother had been my first messenger). I had sent the young girl to IENG Sary's អៀង សារី son-in-law, Poen ពៀន, so that she could study medicine, with the aim of bringing her back to serve at S-21 later. I could stand guarantor for her on my life. So I informed NUON Chea ឆ្លា ជា that she was not part of the network of traitors. In fact, Hor ហ៊ី also knew her and her family and had already decided to separate her from the group of prisoners after he recognized her, and let me know me immediately.

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You ask me why separate lists were done for the Ministry of Social Affairs and hospitals. I do not remember. Maybe they arrived the same day.

Question by the Co-Investigating Judge: We present you with the confession of PÈN Va Sai ប៉ែន វ៉ាសៃ alias Sai សៃ, dated 7 June 1978 (ERN 00039391 to 00039432, annexed to the present written record). Can you tell us what is written at the top and on the left of the first page?

Answer by the Charged Person: It reads “*Phea ភី* ”, which means the confession was sent to IENG Tirith ឿង ទីរិទ្ធ. I cannot read what is written underneath. I do not know whether this annotation was made by NUON Chea ឆន ជា or POL Pot ប៉ុល ពត. I tend to think it was POL Pot ប៉ុល ពត who made the annotation, because NUON Chea ឆន ជា would have written “*Comrade Phea ភី* ”.

Statement by the Co-Investigating Judge: We will present you with a series of questions to which you are requested to provide answers in writing before the next interview.

Answer by the Charged Person: I note this.

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 12.20 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.

ជនគ្រូតបោធន

Charged person

មេធាវី

ជនគ្រូតបោធន

Lawyer for Charged person

អ្នកបកប្រែ

Interpreters

ក្រុមឧបស្ស័យ

Greffiers

សហចៅក្រម

ស៊ើបអង្កេត

Co- Investigating Judges