



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

ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation Religion King

ប័ណ្ណទទួលបានឯកសារ	
DOCUMENT RECEIVED/DOCUMENT 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. Juy

កំណត់ហេតុនៃការតប្រជុំបុគ្គល

Written Record of Confrontation

Procès-verbal de confrontation

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

On the twentieth of October, two thousand and nine, at 2:10 p.m.

We, **You Bunleng ឬ ប៊ុនឡេង** and **Marcel Lemonde**, Co-Investigating Judges of the Extraordinary Chambers,

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

Noting Rule 58 of the Internal Rules of the Extraordinary Chambers

With Ouch Channora អ៊ូច ចាន់ណរ៉ា, as a sworn interpreter of the Extraordinary Chambers

The Charged Person identified below has appeared before us:

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

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា មានទីតាំងស្ថិតនៅ ផ្លូវជាតិលេខ៤ សង្កាត់ ចោមចៅ ខណ្ឌ ដង្កោ ក្រុង ភ្នំពេញ ប្រអប់សំបុត្រលេខ៧១

ទូរស័ព្ទលេខ +៨៥៥(០)២៣ ២១៨៩១៤ ទូរសារលេខ +៨៥៥(០)២៣ ២១៨៩៤១

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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 Law on the establishment of the Extraordinary Chambers, dated 27 October 2004.

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 ពេជ្រសម្បត្តិ, Senior Assistant Co-Prosecutor,
- Mr. William Smith is represented by Mr Vincent de Wilde d’Estamael, Senior Assistant Co-Prosecutor.

Kar Savuth កាវ សាវុត្ត and Francois Roux, Co-Lawyers for the Charged Person, who were duly informed of this interview by summons dated 7 October 2009, and have been able to examine the case file since that time, are both present.

The witnesses DÈNG Chiv ដែង ជីវ and SAUT Toeung ស្ងួត ទឿង were duly summoned by summons dated 7 October 2009. DÈNG Chiv ដែង ជីវ who was sworn in pursuant to Rule 24 of the Internal Rules of the Extraordinary Chambers is present. SAUT Toeung ស្ងួត ទឿង is absent.

The original of this record is written in the Khmer language.

Confrontation

Question from the Co-Investigating Judges to Charged Person: Do you know the Witness present before us (noting that we have not provided the identity of the witness)?

Charged Person’s Response: It has been thirty-one years since we last saw each other, but I recognize his face, his nose, and the shape of his head, the shape of his skull. This is Toeung ទឿង, who was Uncle Nuon's ឪពុក messenger, in charge of coming and going to take the confessions .

Question from the Co-Investigating Judges to the Charged Person: We would like you to look at the witness again and confirm whether you are sure you are not mistaken?

Charged Person's Response: I know that comrade Toeung ឡើង was taller than me and therefore if I stand next to him I will be able to check this. When standing next to him I note that I am taller than he is so therefore this is not comrade Toeung ឡើង.

Question from Co-Investigating Judge to Charged Person: If this is not Toeung ឡើង, is it someone else that you know?

Charged Person's Response: I am not sure. With your permission, I would like to ask the witness the name and gender of his first child.

Witness's Response: My first child is a son, called Cheng Ry ចេង រី.

Charged Person's Question to Witness: Did you give him another name? Was it Fron ហ្រ្លង?

Witness's Response: No

Charged Person's Question to Witness: When was your child born?

Witness's Response: My child was born in 1980 in Thailand.

Question from the Co-Investigating Judges to the Witness: please provide us with your identity.

Witness's Response: My name is DÈNG Chiv ដេង ជីវ. I do not have any aliases this is my only name. I was born in 1950 in Ph'â ផ្អ្ល់ village, Lung Khung លុងខ្យង sub-district Lumphat លំផាត់ District, Ratnakiri រតនគិរី Province; I am currently living in Daun Tret ដូនត្រិត village, Ta Sanh តាសាញ sub-district, Sâmlaut សំឡូត District, Battambang បាត់ដំបង Province.

Charged Person's Response: At first I thought I recognized comrade Toeung ឡើង from his nose and the shape of his skull, but when I saw how tall he was and after asking him more specific details about his child I realized that I had made a mistake. This person is not DÈNG Chiv ដេង ជីវ alias Sot ស៊ុត, the second messenger of Noun Chea ឆ្លូន ជ័រ either.

The last time I saw Chiv ជឺវ was in 1998 or 1999, at a restaurant in Battambang ប៉ាតង់ដំបង. If I were to see him I am sure that I would recognize him: he was somewhat taller than the person present here, his skin was darker, his lips were wider, and his body was "flatter" than this person. I recall that he smoked a lot: he was always asking me for cigarettes.

Witness's Response: I don't smoke And I never have.

Question from the Co-Investigating Judges to the Charged Person: When you met Chiv ជឺវ in Battambang ប៉ាតង់ដំបង in 1998 or 1999 did you ask him or any details concerning his residence or his current status?

Charged Person's Response: I didn't ask him for any details, but I observed that he was wearing a military uniform. He was a lieutenant colonel in the Royal Cambodian Armed Forces, which is the official name. He was angry because MEAS Mut ម៉ាស មុត, who had evicted people from the border areas of Sâmlaut សំឡូត and Koh Kong កោះកុង, had said that those who came back like SOU Met ស៊ី ម៉ែត were traitors. Chiv ជឺវ told me that he was not a traitor and I told him that I agreed with him. He added that he was not a politician, but a soldier in the Royal Cambodian Armed Forces and I told him that he was right. That is all we said to each other. I wish to add that SOU Met ស៊ី ម៉ែត was in the area under government control at the time MEAS Mut ម៉ាស មុត evicted us, myself and the others. Therefore, SOU Met ស៊ី ម៉ែត was not evicted and did not return with us, but that did not prevent MEAS Mut ម៉ាស មុត from calling him a traitor.

Question from the Co-Investigating Judges to the Witness: When you were questioned by our investigators (D200/7) you stated that you had never been Noun Chea's នួន ជា bodyguard and that they were probably referring to another Chiv ជឺវ who is from Koh Kong កោះកុង. Can you provide us with clarification regarding this person?

Witness's Response: When the investigators questioned me they did not provide my full name. They simply said to me "are you Chiv ជឺវ?" And I thought they were mixing me up with another Chiv ជឺវ who was a soldier in the Royal Cambodian Armed Forces in the Koh Kong កោះកុង division. We had been together in a refugee camp and I had heard about him, but I never met him.

Question from the Co-Investigating Judges to the Witness: What did you do between 1975 and 1979?

Witness's Response: I confirm what I stated in my previous interview regarding my activity between 1975 and 1979: I was guarding the Chroy Changvar Bridge. This is the first time I have seen the charged person. I did not know this was Duch ឌុច and I do not have a television. I am only a poor farmer and I was not expecting to come to the court one day.

Question from the Co-Investigating Judges to the Witness: A witness by the name of OEUN Tan អឿន តាន recognized you on the photograph as being Chiv ជីវ, NUON Chea's ឆន ជា bodyguard. (document D200/8).

Witness's Response: This witness was mistaken. I have never been to K-1 or to K-3.

Question from the Co-Investigating Judges to the Witness: This witness was very precise. He declared that you were indeed NUON Chea's ឆន ជា bodyguard and messenger and that you had been living for the past 8 years at Tlok Angkam ត្រក់អង្កាំ, in Ta Sanh តាសង sub-district, Samlaut សំឡូត District next to his residence. How do you explain his statement?

Witness's Response: I assume that OEUN Tan អឿន តាន got frightened when he saw the investigators of the tribunal and made up that story. I know him, but what he said was untrue.

Question from Co-Prosecutor Mr Vincent de Wilde d'Estamael to the Witness: When he was interviewed by the investigators, witness DÈNG Chiv ជីវ stated [D200/7]: "I was forcibly integrated in Kha mi's ខាំមី unit" – what is that unit? Could it be Yo-10 in charge of guarding K-1?

Witnesses' Response: The unit was indeed Yo-10, but I was a private soldier and I don't know what went on inside. I was very young and a private guarding the bridge as I explained before.

Question from Co-Prosecutor Mr Vincent de Wilde d'Estamael to Witness: several other witnesses have asserted that you are the Chiv ជីវ who was the messenger of NUON Chea ឆន ជា, residing in Samlaut: apart from OEUN Tan អឿន តាន (D107/2), Tha Sot ថាសុត (D98/2), Sâ Viស វី (D91/9), Noem Sèm នឹម សែម (the wife of Line លីន – ERN 00365661), Leng Chhoeung ឡេង ឈឿង(D201/7), or could it be that all of these witnesses are mistaken?

Witness's Response: I do not know these people. I have no explanation regarding their statements.

Question from the Co-Investigating Judges to the Charged Person: We are showing you a document entitled “Lists of the People who are working at Office K-1 and Office K-3” (ERN 00021153 – 00021161) Have you seen this document previously? Do you know who wrote up this document and under what circumstances?

Charged Person’s Response: I have never seen this document before. I can say that the handwriting looks like Pon’s ប៉ុន, but I am not sure it is really his handwriting. I don’t know whether these lists were drawn up at S-21 or not. I note that there is mention made of “Uncle No. 2” whereas at S-21 we never called NUON Chea ឆ្មោះ ណា ឈ្មោះ by that name (we called him “Brother No. 2”). I don’t know why these lists were drawn up. Perhaps in order to facilitate the interrogation of these people, but I don’t know who amongst them was interrogated.

Questions from Co-Prosecutor Mr Vincent de Wilde d’Estamael to the Witness:

Regarding this list, under the heading “K-1”, a certain Chiv ជីវ is identified as number 6 and next to his name we can read “Defense and Production Unit, from the North East, Kroeng គ្រីង ethnic minority.” Are you of the Kroeng គ្រីង minority?

Witness Response: I am not Kroeng គ្រីង, I am from the Tumpoun ទំពួន ethnic minority.

Questions from Co-Prosecutor Mr Vincent de Wilde d’Estamael to the Witness: Under the heading “K-3”, the name Sot សុត is listed as number 2 and it is specified next to his name: “guard for Uncle Number 2, from Kampong Sralau កំពង់ស្រឡៅ, Lao ethnic minority”.

Witness’s Response: I have nothing to say about this Mr. Sot សុត.

Charged Person: You have asked me whether I can confirm that witness DÈNG Chiv ដែង ជីវ is not Chiv ជីវ alias Sot សុត. After having heard all of these explanations, I confirm this. I would like to add that Chiv ជីវ spoke Khmer well which is not the case for the witness present here.

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. For technical reasons, it was not possible to provide a copy of the audio-visual recording to each of the participants, so the Civil Parties and witnesses were given a copy of the Written Record.

At 16.52 p.m., we had the Greffier read aloud this Written Record of Confrontation as recorded.

After having been read aloud and heard, the Charged Person had no objections and agreed to sign.

ជនគ្រប់លោក	មេធាវីជនគ្រប់លោក	សហព្រះនាជនគ្រប់លោក	អ្នកបកប្រែ	ក្រុមឧបត្ថម្ភ	សហចៅក្រមស៊ើបអង្កេត
Charged person	Lawyer of Charged person	Co-Prosecutors	Interpreter	Greffiers	Co-Investigating Judge
Personne mise en examen	Avocat de la Personne mise en examen	Co-procureurs	Interprète		Co-juges d’instruction

សាក្សី

**Witnesses
Témoins**

DENG Chiv

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា មានទីតាំងស្ថិតនៅ ផ្លូវជាតិលេខ៤ សង្កាត់ ចោមចៅ ខណ្ឌ ដង្កោ ក្រុង ភ្នំពេញ ប្រអប់សំបុត្រលេខ៧១
ទូរស័ព្ទលេខ +៨៥៥(០)២៣ ២១៨៩១៤ ទូរសារលេខ +៨៥៥(០)២៣ ២១៨៩៤១។

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