

~~កម្ម/No: D286~~



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

<p>Kingdom of Cambodia Nation Religion King ព្រះរាជាណាចក្រកម្ពុជា ជាតិ សាសនា ព្រះមហាក្សត្រ DOCUMENT RECEIVED/DOCUMENT REÇU</p> <p>ថ្ងៃ ខែ ឆ្នាំ (Date of receipt/Date de réception): 22 / 12 2009</p> <p>ម៉ោង (Time/Heure): 11 : 30</p> <p>មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: Uch ARUN</p>

កំណត់ហេតុនៃការសួរចម្លើយ

Written Record of Interview of
Charged Person
Procès-verbal d'interrogatoire

On the 21st of December, 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 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 Rules 55 and 58 of the Internal Rules of the Extraordinary Chambers,

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

Interviewed the Charged Person identified below:

IENG Thirith អៀង ធីរិទ្ធ, female, born on 10 March 1932,

Charged with **Crimes Against Humanity**, offences defined and punishable under
Articles 5, 29 (New) and 39 (New) of the ECCC Law,

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

<p>ឯកសារនេះគឺជាច្បាប់ចម្លងត្រឹមត្រូវតាមច្បាប់ដើម CERTIFIED COPY/COPIE CERTIFIÉE CONFORME</p> <p>ថ្ងៃ ខែ ឆ្នាំ នៃការបញ្ជាក់ (Certified Date/Date de certification): 23 / 12 2009</p> <p>មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: JANN RADA</p>

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The Co-Prosecutors of the Extraordinary Chambers, Mr Andrew Cayley and Mrs Chea Leang ជា លាង, were duly notified of this interview by Notification Letter, dated 26 November 2009:

- Mrs Chea Leang ជា លាង is represented by Seng Bunkheang សេង ប៊ុនហាង, Senior Assistant Co-Prosecutor
- Mr Andrew Cayley is represented by Vincent de Wilde D'Estmael, Senior Assistant Co-Prosecutor

Mr Phat Pov Seang ផាត់ ពៅស៊ាង and Ms Diana Ellis, 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 Phat Pov Seang ផាត់ ពៅស៊ាង is present. Mrs Diana Ellis is absent.

Interview

Statement by the Co-Investigating Judges:

1. On 20 November 2009, pursuant to a request of the Co-prosecutors¹, we issued an Order² in which we endeavoured 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.

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.

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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.
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 Thirith or various aliases including Phea, 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 role as Minister of Social Affairs, you exercised authority or effective control over the Ministry of Social Affairs and related subordinate units during the time that members of its staff were arrested and sent for re-education or to S21. You received one or more confessions of persons from the Ministry of Social Affairs who had been detained, interrogated and executed at S21.
7. In your role as Minister of Social Affairs or in your other roles and functions, you would meet and associate with other senior political and military leaders of the Communist Party of Kampuchea ("CPK"), participate in meetings where these senior political and military leaders, and members of the Zone and Sector Committees were present, visit a number of organizational units of the Centre and other places around Cambodia, sometimes whilst hosting foreign delegations. In these various roles and functions and as a result of these associations, meetings and visits, you were kept apprised of the situation in Phnom Penh, throughout Cambodia and along its borders, including the way in which CPK policies were being created, disseminated and implemented.
8. You also took part in the creation, implementation, coordination, promotion or dissemination of CPK policies, *inter alia* through your involvement in meetings where you made public statements endorsing or promoting such policies. These policies led to the displacement of persons, the establishment and operation of cooperatives and worksites, the establishment and operation of security centres and execution sites, and to the mistreatment of civilians including Chams, Vietnamese, Buddhists, or other targeted groups.
9. You also appear to have participated in the creation, implementation, coordination or dissemination of CPK policy related to the international armed conflict with Vietnam which involved acts constituting grave breaches of the 1949 Geneva Conventions.
10. 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;

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- 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:

11. 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.

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

- Wilful killing
- Torture or inhumane treatment
- Wilfully 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

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

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- Wilfully 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.

13. **GENOCIDE** of Chams and Vietnamese.

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

14. 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*.

Given the statements, do you wish to make any observations or do you prefer to exercise your right to remain silent?

The Charged Person

I would like to say that everything that has been said this morning has only been lies. I was sent to Hanoi in order to work for Khmer national radio for a five year period. I was not in Phnom Penh from 1970-1975. I was working with a group of students in order to fulfill this task. Chea Soth ជី សុទ្ធ was the one who spoke on the radio. There was a deputy taking charge of everyday life. You may ask the authorities in Hanoi about this.

I am challenging all of the facts for which I am being charged. I can even give you the names of the people who committed these crimes, but it is not yet the moment to do so.

In May 1975, I returned to Phnom Penh where it had become possible to work. It was planned for the students and I to return together but, since a Chinese delegation had to travel to Phnom Penh, the deputy asked that I return with the Chinese delegation and the students travelled to Phnom Penh the following day.

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.

Senior Assistant to the Co-Prosecutor Mr. De Wilde d’Estmael:

I observe that, before the floor was given to the Charged Person, and whilst her microphone was not activated, she made several comments that are not in the written record. Specifically, she said “I never killed anyone, who told you that? Nuon Chea ជួន ឆា ជឺន ឃី is the universal assassin. [*In English*], you will see! [*In French*] I never knew any Chams, I am ashamed for you! These are idiotic lies. [*During the interview*] the person who made up that statement is stupid.”

The Charged Person

I confirm these statements.

The original of the audio-visual recording was sealed before the Charged Person and her Lawyers and was signed by us, the Greffiers, the Charged Person, and her Lawyers.

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

At 10:20 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 she had no objections and agreed to sign it.

ជន្រ្តូតចោទ	មេធាវី	សហព្រះរាជអាជ្ញា	អ្នកបកប្រែ	ក្រឡាបញ្ជី	សហចៅក្រម
Charged person	ជន្រ្តូតចោទ	Co-Prosecutors	Interpreters	Greffiers	ស៊ើបអង្កេត
	Lawyer for Charged person				Co- Investigating Judges