

002/09 = 62/4  
002/09/11



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

Extraordinary Chambers in the Courts of Cambodia  
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**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: 001/18-07-2007

**កំណត់ហេតុនៃកិច្ចពិភាក្សាដេញដោល**

Written Record of Adversarial Hearing

Procès-verbal de débat contradictoire

The year two thousand seven, the month of July, the 31<sup>st</sup> day, at 15:20 hours.

We, **You Bunleng យូ 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

Having seen the Law on the Establishment of the Extraordinary Chambers dated 27 October 2004

Having seen Rule 63 of the Internal Rules of the Extraordinary Chambers

In the presence of **Uch Channora អ៊ុច ចាន់ណរ៉ា** and **Yuk Bunna យុក ប៊ុនណា** as sworn interpreters of the Extraordinary Chambers

The charged person identified below presented himself before us:

**Kaing Guek-Eav កាំង ហ្គេកក្សីវ** alias **Duch ឌុច**, male, born 17 November 1942 at **Peou Veuy ពៅវើយ** Village, **Peam Bang ពាមបាង** Subdistrict, **Stong ស្តែង** District, **Kampong Thom កំពង់ធំ** Province, nationality Khmer, occupation teacher.

Father's name **Kaing Ky កាំង គី** (deceased). Mother's name **Meas Kimsiev មាស គីមសៀវ**

(surviving). Wife's name **Chhim Sophal ឈឹម សុផល** (deceased). 04 children. Residence Au

**Toteum តូតូម** Village, **Ta Sanh តាសាញ** Subdistrict, **Samlaut សំឡូត** District, **Battambang បាត់ដំបង** Province.

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

សេចក្តី/លេខ: C.2/3  
សេចក្តី/លេខ: ០១/១២

Charged of crimes against humanity, an offense appearing in and punishable according to Article 5, Article 29 (New), and Article 39 (New) of the Law on the Establishment of the Extraordinary Chambers dated 27 October 2004.

The original of this record is written in Khmer.

- We told the charged person that that this Adversarial Hearing was being audi-visual recorded.
- We told that charged person that we were taking for consideration the matter of temporary detention, and we explained to the charged person that the decision on temporary detention could be made only after this Adversarial Hearing.
- This person has defense lawyers appointed, as requested, by the Defense Support Unit, lawyer Mr. Kar Savuth កាវ សាវុត្ត and international lawyer Mr. Francois Roux.
- The lawyers for the charged person have access to examine the case file and may freely communicate with their client.
- We recall the demand of the charged person regarding the illegality of his detention by the Military Court made in the Written Record of First Appearance.

**Adversarial Hearing**

**The Co-Prosecutors presented their understanding and requests as stated below:**

As was stated by the Co-Investigating Judges a moment ago, we requested to detain this person in the Introductory Submission. Referring to the investigations, documents, and witnesses, we firmly believe that this person joined in the commission of many serious offenses while Democratic Kampuchea held power, as stated in the Introductory Submission. He is a person who held high position. The witnesses who testified were all the subordinates of this person. Therefore, were he to be outside detention, there may be pressure or threats upon those witnesses to not respond truthfully or to cause them to be frightened and not tell us the truth, and this also may not allow those witnesses their personal security.

If he is not detained, this may result in his absence during legal proceedings. He may flee. Specifically, during the Democratic Kampuchea regime, he had only two names, **Kaing Geuk-Eav**, alias **Duch**. When that regime fell, he used other names, Hâng Pin ហង់ប៊ុន ពិន, Kaing Cheav កាំង ជ័យ, Yim Keav យឹម គីវ, for example. The use of these new names was to conceal his identity. And he fled his place of birth to avoid being recognized and to disguise himself among the people of a remote village. This shows that he in fact had the intent to evade responsibility for what he had done in the past.

We think of the safety of this person as well. Everyone knows that he was a savage chief murderer and was S-21 Chairman. Therefore, if he were to be outside detention, he would not have any

លេខ/ល្អ: C2/2  
០១/ល្អ ០១/១៣

personal security whatsoever. This could impact public order as well. The victims or their families might cause unrest or do violence to him, and this would impact public order. Based upon the above, in the name of the Prosecution, I request the Investigating Judges to temporarily detain this person.

Mr. Robert Petit brought up that: Francois Roux does not yet possess full credentials to defend the case. I have nothing to add beyond what was raised by my colleague.

**The charged person**, after listening to the statements of the Co-Prosecutors, stated that: I request that my lawyer speak.

**Lawyer Kar Savuth expressed his understanding and requests as stated below:**

May I pay my respects to the Chamber.

I wish to remind that the period of detention of my client has already been more than eight years. Therefore, this had been very bad for my client. This is contrary to national and international law ratified by Cambodia. In particular, Article 14 of the International Covenant on Civil and Political Rights កតិកាសញ្ញាស្តីពីសិទ្ធិពលរដ្ឋ និង នយោបាយ and Article 5.3 of the European Treaty on Human Rights អនុសញ្ញាអឺរ៉ុបស្តីពីសិទ្ធិមនុស្ស. Therefore, I request that the Chambers at this time guarantee respect for the law and urgently end the illegal detention of my client, since it is against national and international law. The jurisdiction of the Extraordinary Chambers is to be responsible for guaranteeing respect for these standards and laws. The case Baraya Via 03 11 1999 ICT97-19 was related to serious violations of the rights of charged persons. According to the Law on Temporary Detention, Article 1, the time limit for detention cannot be above four months, and in special cases the Judge may extend detention six months. For crimes of genocide, crimes against humanity, this time period may extend to one year, and may be extended one year at a time, but no more than three times.

I wish to confirm that before the detention of my client, the time limit of detention could not be beyond six months. But, after detaining my client they made a law in order to detain my client all the way up to three years.

I hope these Chambers will operate according to the law to the highest, and clearly will carry out the law, and not do anything contrary to the law.

This detention is contrary to Rule 63-3 of the Internal Rules as well.

May I confirm that the release of my client will not lead to pressure upon witnesses as was raised by the Co-Prosecutors.

At this time, my client does not know who the witnesses are. Also, all of those witnesses have presented themselves and have spoken publicly.

Saying that my client might destroy documents is incorrect, because if he wanted to destroy documents he would have done so long ago.

លេខ/ល្ហ: C2/1  
០៩១/ល្ហ ០១/១៤

What was said about security was incorrect as well, because he was outside for more than twenty years and there was never any problem. Damaging public order is incorrect as well, because he was outside for more than twenty years and there was never any problem.

What was said about him changing his name to cover his tracks is also incorrect. Fleeing his place of birth and changing his name is also incorrect. All the major figures, revolutionaries, changed their names; this was their custom and was a requirement of upper echelon (Pol Pot). For example, Pol Pot was called Big Brother Number One បងធំទីមួយ and Nuon Chea was called Big Brother Number Two បងធំទីពីរ. So this changing of names had been done for a long time, since joining the revolution. Since he presented himself to the government, he has never changed his name. In general, any impact upon order and society ended long ago. And others have had no problems. My client could be considered a Colonel in the hierarchy. My client was very distant from those at high levels, and that group has had no problems whatsoever. And others have been pardoned by the King. Therefore, it has been an injustice to him. As I have stated, it is a violation of national and international law and the principles of the United Nations on detention.

I request the release of my client by placing him under court supervision.

The charged person added: Fundamentally, my lawyer has spoken correctly. The interpretation of the crimes in Cambodia, if I speak, it will be better than all the witnesses. It was an international event. Before Pol Pot drew his last breath, he denied the existence of Office S-21. I must show the world that I am Duch, the Chairman of S-21. I will expose Pol Pot. And I have prepared myself to expose this group. I have no reason to threaten witnesses. Furthermore, I do not know who the witnesses are.

- We asked, if, after the medical examination this morning, there were any problems. The charged person said there was no urgent treatment. The medical report is being prepared.
- We told the charged person that, through the court order which must be issued today, we would decide to temporarily detain him and would issue a Detention Order.
- The original audio-visual recording was sealed in front of the charged person and his lawyers, and was signed by us, the Greffiers, the charged person, and his lawyers.
- One copy of the audio-visual recording was provided to the charged person.

At 18:20 hours, we had the Greffiers read aloud this Written Record of Adversarial Hearing as recorded.

- It having been read aloud and heard, the charged person had no objections and agreed to sign.

Charged Person	Interpreters	Greffiers	Co-Investigating Judges
K. Guek-Eav Lawyer Kar Savuth	Yuk Bunna Uch Channora	Ly Chantola Hem Hel	You Bunleng Marcel Lemonde

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

Extraordinary Chambers in the Courts of Cambodia National Road 4, Choam Chao, Dangkoa, Phnom Penh  
Mail Po Box 71, Phnom Penh Tel: +855(0)23 218914 Fax: +855(0) 23 218941.  
Chambres extraordinaires au sein des tribunaux cambodgiens, Route nationale 4, Choam Chao, Dangkoa, Phnom Penh  
Boite postale 71, Phnom Penh. Tel: +855(0)23 218914 Fax: +855(0) 23 218941.

**បានថតចម្លងត្រឹមត្រូវតាមច្បាប់ដើម**  
**Certified Copy/Copie Conforme**  
 ថ្ងៃទី(On/Le).....28...ខែ(Month/Mois).....Jen  
 ឆ្នាំ(Year/Année).....2007  
 ក្រឡាបញ្ជី/ Greffier.....Dauv