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ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King

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: 001/18-07-2007-ECCC-OCIJ

ORIGINAL DOCUMENT
RECEIVED ON 28-01-2008
AT 14h 15 PM
BY CHEA Kosal
[Signature]
Court officer

<p>ឯកសារបានត្រួតពិនិត្យតាមច្បាប់ដើម CERTIFIED COPY/COPIE CERTIFIÉE CONFORME</p> <p>ថ្ងៃ ខែ ឆ្នាំ ត្រូវបានបញ្ជាក់ (Certified Date/Date de certification): 28-01-2008</p> <p>មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: CHEA Kosal</p>
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កំណត់ហេតុនៃការសួរចម្លើយ
Written Record of Interview of
Charged Person
Procès-verbal d'interrogatoire

The twenty first of January, two thousand and eight, at 9 h 10 a.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 ច័ន្ទតុណា** as Greffiers

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

Noting Rule 58 of the Internal Rules of the Extraordinary Chambers

With **Ouch Channora អ៊ូច ចាន់ណូរ៉ា** and **Tanheang Davann តាន់ហ៊ីង ដាវ៉ាណូ**, sworn interpreters 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

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.

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

The Co-Prosecutors of the Extraordinary Chambers, Mr. Robert Petit and Mrs. Chea Leang ជា ណាង were duly notified of this interview by Notification Letter dated 09 January 2008:

- Mrs. Chea Leang ជា ណាង is represented by Mr. Yet Chariya (យ៉ែត ចារិយា), Deputy Co-Prosecutor
- Mr. Robert Petit is represented by Mr. Alex Bates, Senior Assistant Co-Prosecutor.

Kar Savuth កាវ សាវុត្តិ and Francois Roux, Co-Lawyers for the Charged Person, who were duly informed of this interview by summons dated 09 January 2008, and have been able to examine the case file since that time, are both present.

Interview

Questions-Answers:

Question by Co-Investigating Judge YBL

Do you remember that on 4, 5 and 6 May 1999, you were interviewed by journalists and by a UNHCHR representative?

Observations by Maitre Francois Roux

Before our client answers this question, the Defence would like his express reservations regarding this document be noted in the written record. These reservations are twofold: first, Mr. Duch ឌុច was not only interviewed by journalists but also by a United Nations representative who should have informed him of his right to remain silent, which was not done; second, there is some confusion regarding the various translations of this interview which have been included in the Case file. Incidentally, we would like to obtain a copy of the audio- recordings of this interview. These reservations having been noted, our client is ready to answer your questions.

Question by Co-Investigating Judge ML

Could you specify the conditions in which this interview was carried out? Who was present? Where did it take place? What were the exact dates?

Answer by the Charged Person

It took place at the Monorumមនោរម្យ hotel in Battambangបាត់ដំបង, between 30 April and 3 May 1999 (so the dates of 4, 5 and 6 May 1999 appearing on the Case file document are erroneous). Please note that I challenge the term "interview": I was questioned by a representative of UNHCHR, who had the list of questions to ask me. At first, I refused to answer but he told me he had a UN mandate and that

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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.

therefore, he was entitled to question me. He wanted an audiovisual record but I refused to be filmed. The following persons were present:

- 1. Christophe Peschoux, Deputy to Mr. Thomas Hammaberg, United Nations representative for Human Rights;
 - 2. Ruth Hugo, in charge of UNHCHR in Battambang;
 - 3. Heng HamKheng ហេង ហាំខេង, interpreter;
 - 4. Nate Thayer, journalist;
 - 5. Father Bernard, a catholic priest who was there for psychological support.
- Only Christophe Peschoux asked questions.

Question by Co-Investigating Judge ML

Did you also meet the journalists Nate Thayer and Nic Dunlop separately?

Answer by the Charged Person

Indeed, I had met these journalists beforehand, very briefly. First, Nic Dunlop came to see me around 10 April 1999, in O Totim អូរទឹម village, Ta Sagh តាសាញ់ Subdistrict, Samlaut សំឡូត District. He took photos of me. Then, he came back about fifteen days later. He questioned the villagers about me. You ask me whether I have read Nic Dunlop's book, "The Lost Executioner". I have. I will send you my written observations on the report this journalist gives of our meeting. Please note that I introduced myself to Nic Dunlop by the name Hâng Pin ហាំងពិន (my "official" false name since my return from China in 1988) because I wanted to conceal my identity from outsiders. I would like to highlight that since 1980, everyone in Samlaut knew me by the name of Duch ឌុច, including all the children.

Question by Co-Investigating Judge ML

Have you never met Nic Dunlop and Nate Thayer together?

Answer by the Charged Person

I do not remember exactly. I know that each time it did not last more that twenty minutes. Nic Dunlop just took photos. As to Nate Thayer, he asked questions, a few at the first meeting but more on his second visit to my domicile in Samlaut សំឡូត; he was with Christophe Peschoux then. This was about four days before our meeting at the hotel in Battambang. At this meeting, Christophe Peschoux did not have his list of questions and the discussion was not recorded, at least not to my knowledge. Ruth Hugo – who was also present in Samlaut សំឡូត – gave me an appointment at her Battambang បាត់ដំបង office from where we left to the hotel.

Question by Co-Investigating Judge ML

Could you tell us about your arrest and whether you tried to contact someone likely to help you between the moment you were discovered and your arrest?

Answer by the Charged Person

I did not contact anyone. Thomas Hammaberg published a press release stating that I had been discovered and asked the governmental authorities to guarantee my protection. On 6 May, I was summoned by the Battambangបាត់ដំបង Police (I had returned to Samlautសំឡូត the day before). I respected this summons and was transferred to Phnom Penh. Please note that Christophe Peschoux told me I could be imprisoned in Belgium and gave me 50 dollars for the Taxi to Thailand where INTERPOL was to organise my transfer to Belgium. I asked him who would organise for my family's visits. As I did not get any answers, I refused this proposal.

Question by Co-Investigating Judge ML

Let us go back to the conditions of the meeting which took place in early May 1999 at the Monorumមណ្ឌលរម្យ hotel in Battambangបាត់ដំបង.

Answer by the Charged Person

I was questioned every day, from 7:00 to 11:00 a.m. and from 2:00 to 4:00 p.m., from 30 April (or 1 May?) until 3 May, in the afternoon, in a room that had been rented for me. All my expenses were paid by Christophe Peschoux. The questions asked in French by Christophe Peschoux were translated to Khmer by the interpreter; I answered in Khmer and the interpreter translated to French. You ask me to give you my written observations on the two documents T001 ("interview with Kaing Guek Eavកាំង ហ្គេកក្សាវ alias Duchដុច, head of S-21, 4, 5 and 6 May 1999") and T07 i.e. D9 ("interview with Duchដុច"). I will send you these observations shortly, early February at the latest.

Statement by Co-Investigating Judge YBL

You just need to indicate which points you disagree with in these documents.

Charged Person

I understand.

Question by Senior Assistant Co-Prosecutor Alex Bates

Did you willingly answer the questions you were being asked? You had concealed your identity for more than twenty years. What made you give so many details and tell everything after all these years?

Answer by the Charged Person

As regards the first question, I hid absolutely nothing from Christophe Peschoux and freely answered his questions. As regards the second question, I would like to point out that I never concealed my identity from Cambodians, who knew I was Duchដុច, former head of S-21ស៊ីឡា. Before I left for China in 1986, Son Senស៊ិនសែន ordered me to change my name. I then took the name of Pinពីន, which

I kept after I came back in 1988 when I worked for Son Sen សុនសែន at Office K18 ក១៨. As to the reasons that lead me to talk in 1999, there is first the fact that it was impossible not tell the truth about S-21 ស២១. Nate Thayer had explained to me that Pol Pot ប៉ុលពត denied the existence of S-21 ស២១ and claimed that it was an invention of the Vietnamese. I felt it necessary to explain. You ask me whether my personal evolution during the 90's affected my decision to talk. I need time to answer that question. I will elaborate on the details with the experts, at the psychological expertise you decided to organise.

Question by Senior Assistant Co-Prosecutor Alex Bates

The Charged Person just mentioned that Son Sen សុនសែន was still his chief in 1986. Yet, he previously explained that he condemned what had happened in S-21 ស២១ on behalf of the Democratic Kampuchea regime. How does one explain that, seven years later, he had still not cut off all ties with the leaders of the regime, which tends to prove that he was still hoping for the Khmer Rouge victory?

Answer by the Charged Person

I wish to say that I arrived in Samlaut សំឡូត ្រុត on 30 December 1979 and that from that point onwards, I was "prisoner of the regime" so to speak. No one could leave Samlaut សំឡូត ្រុត. In 1985, I was assigned to teaching. On 25 June 1986, I arrived at Office K18 ក១៨ and Son Sen សុនសែន sent me to China at the end of October to teach Khmer to Chinese students. I left for two years with a passport from Democratic Kampuchea. In China, I was also in a Communist country, and what is more, under the surveillance of Son Sen's សុនសែន wife. Thus, although I was not willing to support the Khmer Rouge regime in either Samlaut សំឡូត ្រុត or in Beijing, it was impossible for me not to do so.

Question by Co-Investigating Judge ML

Until when were you "prisoner of the regime"?

Answer by the Charged Person

In 1992, Pol Pot ប៉ុលពត assigned me to oversee economic issues in Phkoâm ភ្នំ វិល្លា village, Phkoâm ភ្នំ Subdistrict, Thmâr Puok ថ្មប្រាក់ District, Banteay Meanchey បន្ទាយមានជ័យ Province. Then, I lost contact with my superiors but I was still under the guards' surveillance. In fact, the rupture was progressive. Khmer Rouge soldiers were progressively dispersed with the continuation of the war. I became a teacher; I also got involved in the rice trade and pig breeding. On 11 November 1995 in Phkoâm ភ្នំ វិល្លា I was victim of a robbery in the course of which my wife was killed. A few months later, my younger sister came to pick me up and I moved to Samlaut សំឡូត ្រុត. At roughly the same time, Meas

Mutសម្បត្តិ was having the Subdistrict evacuated and ordered the resumption of fighting against the government. I then went to Thailand with the entire population of Samlautសំឡូត៍. An association called ARC looked after the refugees and I started to work for this association in July 1997.

The Written Record of Interview was suspended at twelve hours and fifteen minutes a.m.

At 2 h 10 p.m. on the same day, we continued the interview.

Question by Co-Investigating Judge YBL

Were there Internal Rules at S-21ស៊ីង្ស for interrogation methods? If yes, since when and who established them?

Answer by the Charged Person

I provided the rules. I explained them at training sessions. In particular, four different forms of torture were authorized (beating, electrocution, plastic bag over the head and water in the nose). It was specified that if an interrogation led to the death of the detained person, and thus, to the interruption of the confession, the interrogator was responsible.

Question by Co-Investigating Judge YBL

So there were no written rules?

Answer by the Charged Person

No. You ask me whether such rules were written on the walls, on the blackboard for instance. I never personally entered the interrogation rooms and never saw any blackboards with chalk-written rules. I know such inscriptions were found in S-21ស៊ីង្ស but in my opinion, they were added after 7 January 1979 for political reasons. Whatever the case may be, they were not there on 3 January.

Question by Co-Investigating Judge YBL

How can you be so sure if you never entered the interrogation premises?

Answer by the Charged Person

I will take an example. I know that an inscription containing the 10 interrogation rules was found. Rule 8 specifies: *“Do not make pretexts about Kampuchea Kromកម្ពុជាប្រកាម so as to hide your true existence as a traitor.”* Yet, at S-21ស៊ីង្ស, the question of Kampuchea Kromកម្ពុជាប្រកាម was never raised. That’s why I think that all of this was made up *a posteriori*.

Question by Co-Investigating Judge YBL

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It seems to result from the notes of S-21ស២១ interrogators that from the end of 1978 onwards, a “new line” of “compassion towards the People” had to be applied in S-21ស២១ and that torture was not to be practiced any more on the Khmer detainees but only on Vietnamese and other foreigners. What can you tell us on that?

Answer by the Charged Person

I did not give any particular instructions as regards torture at the end of 1978. I learned later, particularly while reading Chandler’s book (“Voices from S-21, Terror and history in Pol Pot’s secret prison”) that the use of torture had been limited at that time, but I did not give any express order to this end. Yet, I noticed at the time that the rules set for torture were not being respected: certain forms of unauthorized torture were practiced, such as tearing out fingernails, or the obligation to salute a caricatured dog bearing the head of Ho Chi Minh or Lyndon Johnson. When I learned that (images of a dog) I neither protested nor supported; yet, for tearing out fingernails, I reacted by threatening to make a report. Furthermore, I noted while reading Chandler’s book that there had also been other forms of torture such as forced ingestion of excrement. But I did not know it at the time.

On the same subject, I can add that at the end of 1977, I wrote to Son Senស៊ុនសែន and asked for his assistance: the confessions accused a considerable number of people. He replied that the interrogators had to be careful and not accept confessions which accused too many people. I steno-typed his letter and distributed a copy to the interrogators.

Question by Co-Investigating Judge YBL

What is the definition of the three terms “smashកំទេច” “resolveដោះស្រាយ” and “sweep cleanly awayសម្អាត”? During which periods were these terms used and in what context?

Answer by the Charged Person

In the case of M-13ម១៣ and S-21ស២១, the words “smashកំទេច” and “resolveដោះស្រាយ” are synonymous and mean “executionសម្អាត” i.e. take the interrogated person to be executed. The word “resolveដោះស្រាយ” was used under Vorn Vetវ៉ែត whereas under Son Senស៊ុនសែន, we used “smashកំទេច”. “Sweep cleanly awayសម្អាត” was used by the Lon Nolលន់នុល regime. But after 17 April 1975, in particular after the arrest of Koy Thuonកុយធ្នួន, the Khmer Rouge used the word “purgeសម្រិតសម្រាំង”, which means collective arrest.

Question by Co-Investigating Judge YBL

Were the terms you explained above used by other members of the Central Committee and in particular, in records of the meetings of Central Committee members? Does the word “resolveដោះស្រាយ” have the same meaning as the one you gave above?

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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.

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Answer by the Charged Person

Nuon Chea ណួនចា and Son Sen សុនសែន used “smash កំទេច” and “purge សម្រិតសម្រាំង”. Vorn Vet វ៉ែតវ៉ែត was no longer my superior by then. As to the word “resolve ដោះស្រាយ” featuring in the record of the meeting, its meaning corresponds to the explanation above (the terms of the record are “the problem of internal enemies has been resolved”). This means that the Standing Committee had already decided the arrest of the internal enemies and that they had been transferred to S-21 ស៊ីឡា.

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

At 16.35 p.m. we had the Greffier read aloud this Written Record of Interview of Charged Person as recorded.

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

Charged Person	Lawyers for Charged Person	Co-Prosecutors	Interpreters	Greffiers	Co-Investigating Judges
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