



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

15 September 2016

Trial Day 455

Before the Judges: YA Sokhan, Presiding
Claudia FENZ
Jean-Marc LAVERGNE
THOU Mony
YOU Ottara
Martin KAROPKIN (Reserve)
NIL Nonn (Absent)

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
Victor KOPPE
KONG Sam Onn
Anta GUISSSE

Trial Chamber Greffiers/Legal Officers:
CHEA Sivhoang
Harshan ATHURELIYA

Lawyers for the Civil Parties:
Marie GUIRAUD
LOR Chunthy
PICH Ang
VEN Pov

For the Office of the Co-Prosecutors:
Dale LYSAK
SENG Leang
SREA Rattanak

For Court Management Section:
UCH Arun

I N D E X

Mr. NOEM Oem (2-TCW-854)

Questioning by The President (YA Sokhan) page 5
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Questioning by Mr. Lysak page 80

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
The President (YA Sokhan)	Khmer
Mr. NOEM Oem (2-TCW-845)	Khmer

1

1 P R O C E E D I N G S

2 (Court opens at 0900H)

3 MR. PRESIDENT:

4 Please be seated. The Court is now in session.

5 The Chamber wishes to inform the parties and the public that the
6 health condition of the President, Nil Nonn, is better, and we
7 hope that he's able to join the Bench very soon after he <has
8 been> updated with the latest development in the proceedings
9 <during the time he was absent>.

10 And I notice counsel for Khieu Samphan is on her feet. You may
11 proceed.

12 [09.01.35]

13 MS. GUISSSE:

14 Mr. President, I apologize, but I think we have a problem in the
15 French booth.

16 Well, in any case, there's a strange sound in our headphones, and
17 I think it's the case for all French speakers.

18 MR. PRESIDENT:

19 And AV Unit, please check because the Khmer channel <is not
20 working either.>

21 (Short pause)

22 [09.02.41]

23 MR. PRESIDENT:

24 Let us resume our proceedings.

25 Again, the Chamber wishes to inform the parties and the public

2

1 that the health condition of the President, Nil Nonn, has
2 improved, and we hope that he is able to join the Bench in the
3 near future after he has been updated about the latest
4 developments in the proceedings <during the time he was absent>.
5 And today, the Chamber will hear testimony of witness 2-TCW-854
6 in relation to S-21 Security Centre.

7 Ms. Chea Sivhoang, please report the attendance of the parties
8 and individuals to today's proceedings.

9 <> Counsel for Khieu Samphan, <you have the floor.>

10 MS. GUISSSE:

11 I apologize for interrupting again, but we really have a problem
12 in the French channel. I don't know if that's the case with the
13 other languages, but there's <a crackling,> constant static <can
14 be heard over the voice of the interpreter>, so that is an issue.

15 [09.04.05]

16 MR. PRESIDENT:

17 AV Unit personnel, please check and see whether there is any
18 technical glitch, since the French channel cannot be heard.

19 (Technical problem)

20 [09.08.08]

21 MR. PRESIDENT:

22 Parties, can you hear the interpretation?

23 MS. GUISSSE:

24 It's okay now for the moment, Mr. President.

25 MR. PRESIDENT:

1 Thank you, Counsel.

2 Again, let we resume our session. And the Chamber wishes to
3 inform the parties and the public that the health condition of
4 President Nil Noon has improved, and we hope that the President
5 can join the Bench very soon after he has been updated with the
6 latest developments in the proceedings <during the time he was
7 absent>.

8 And today, the Chamber will hear testimony of a <witness>,
9 2-TCW-854 in relation to S-21 Security Centre.

10 Ms. Chea Sivhoang, please report the attendance of the parties
11 and other individuals to today's proceedings.

12 [09.09.20]

13 THE GREFFIER:

14 Mr. President, for today's proceedings, all parties to this case
15 are present, except Liv Sovanna, national counsel for Nuon Chea,
16 who informs the Chamber that he will be absent for this morning's
17 session for personal reasons.

18 Nuon Chea is present in the holding cell downstairs. He has
19 waived his rights to be present in the courtroom. The waiver has
20 been delivered to the greffier.

21 The witness who is to testify today, that is, 2-TCW-854, has
22 taken an oath before <> the Iron Club Statue yesterday and is
23 ready to be called by the Chamber.

24 We also have a reserve civil party, that is, 2-TCCP-283.

25 Thank you.

1 [09.10.17]

2 MR. PRESIDENT:

3 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the
4 request by Nuon Chea.

5 The Chamber has received a waiver from Nuon Chea, dated 15
6 September 2016, which states that, due to his health, that is,
7 headache, back pain, he cannot sit or concentrate for long. And
8 in order to effectively participate in future hearings, he
9 requests to waive his right to be present at the 15 September
10 2016 hearing.

11 He advises that he has been advised by his counsel about the
12 consequence of this waiver, that in no way it can be construed as
13 a waiver of his rights to be tried fairly or to challenge
14 evidence presented to or admitted by this Court at any time
15 during this trial.

16 [09.11.10]

17 Having seen the medical report of Nuon Chea for the -- by the
18 duty doctor for the accused at the ECCC, dated 15 September 2016,
19 which notes that Nuon Chea has a chronic back pain and it becomes
20 severe when he sits for long and recommends that the Chamber
21 shall grant him his request so that he can follow the proceedings
22 remotely from the holding cell downstairs.

23 Based on the above information and pursuant to Rule 81.5 of the
24 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
25 follow today's proceedings remotely from the holding cell

5

1 downstairs via an audio-visual means.

2 The Chamber instructs the AV Unit personnel to link the
3 proceedings to the room downstairs so that Nuon Chea can follow.

4 That applies for the whole day.

5 Court officer, please usher witness 2-TCW-854 into the courtroom.

6 (Witness enters the courtroom)

7 [09.14.02]

8 QUESTIONING BY THE PRESIDENT:

9 Q. Good morning, Witness. What is your name?

10 And Witness, please, you should respond only when you see the red
11 light on the tip of the microphone.

12 MR. NOEM OEM:

13 A. My name is Noem Oem alias Nim Kimsreang.

14 Q. Are you known by any other names or alias?

15 Counsel for Khieu Samphan, you have the floor.

16 MS. GUISSSE:

17 I apologize, but I still have static on the French channel.

18 [09.15.05]

19 MR. PRESIDENT:

20 AV Unit, please check the French channel again.

21 (Technical problem)

22 [09.16.34]

23 MR. PRESIDENT:

24 Please be informed the AV Unit needs a few minutes to recheck
25 their system.

1 (Technical problem)

2 [09.18.34]

3 BY MR. PRESIDENT:

4 Q. Witness, when were you born?

5 And Witness, please observe the microphone.

6 And Court officer, please raise the microphone a bit further so
7 that I can see the red light and whether the microphone is
8 operational.

9 Again, Witness, when were you born, if you can recall it?

10 MR. NOEM OEM:

11 A. (Microphone not activated)

12 Q. And again, Mr. Witness, please observe the microphone. You
13 should only speak when you see the red light on the tip of the
14 microphone.

15 A. I was born in 1953, and I cannot recall the day or the month.

16 Q. Where is your current address, and occupation?

17 A. I live in Prey Totueng village, Khpob, S'ang district, Kandal
18 province. I am a rice farmer, and I also work as a <traditional
19 medicine seller> .

20 [09.20.10]

21 MR. PRESIDENT:

22 Again, AV Unit personnel, please check the French channel. It
23 seems that it's not working again.

24 (Technical problem)

25 [09.22.36]

1 MR. PRESIDENT:

2 Due to a technical glitch, the AV Unit needs 20 minutes to reset
3 it. For that reason, we will take 20 minutes break, and after
4 that, we will have session straight until lunch time.

5 And Nuon Chea defence, you have the floor.

6 MR. KOPPE:

7 Yes, thank you. Good morning, Mr. President, Your Honours.

8 May I take the opportunity to make a request before -- well, she
9 can hear it, but it's just that, before you withdraw -- before I
10 would start my questioning of the witness, I was going to make a
11 preliminary remark in respect of the time allotted to the
12 parties.

13 This is, we believe, a very important witness when it comes to
14 the functioning of S-21. Earlier witnesses like Him Huy or Suos
15 Thy were allotted two days. We feel that this witness is as
16 important as those two witnesses, so we believe that one day is
17 very short time for this witness, and I'm -- I anticipate
18 Prosecution would agree with this.

19 [09.23.56]

20 Now, in addition with the technical problems, my request would be
21 to consider allotting more time for this witness, I would say at
22 least one day and a half, two days. It depends, of course, on the
23 way things go, but at least we should go into the morning
24 sessions tomorrow. That's my request.

25 MR. PRESIDENT:

1 Judge Lavergne, you have the floor.

2 JUDGE LAVERGNE:

3 Well, simply to let you know that the French channel is no longer
4 problematic. There's no longer any <background> static. I hope
5 it's going to last. I don't know if it's the same for the others,
6 but how about the Khmer channel? No problem? Okay.

7 I believe that, therefore, it's no longer necessary to take a
8 20-minute break, and I think that we can continue because the
9 technical problems, apparently, have been solved.

10 (Judges deliberate)

11 [09.25.32]

12 MR. PRESIDENT:

13 Since the problem has been solved, let we resume our session.
14 As for the request of Nuon Chea's defence, the Chamber will see
15 how it goes.

16 And Prosecutor, you have the floor.

17 MR. LYSAK:

18 Let me just put a couple comments on -- I do not agree with the
19 Nuon Chea defence that this witness is important as people such
20 as Him Huy and Suos Thy, who had two days. I think it's clear
21 from reading his interview that his knowledge is limited and
22 memory problematic at times. But that said, it's an important
23 witness in the view of the Defence, I wouldn't have objection if
24 the Chamber wished to give an extra session to both parties. I
25 certainly don't think it needs to be two days, but if the Chamber

1 wants to consider a little extra time, we wouldn't have any
2 objection to that.

3 [09.26.52]

4 BY MR. PRESIDENT:

5 Q. And Witness, what are the names of your parents?

6 MR. NOEM OEM:

7 A. My father is Dik Nim, and my mother is Ros Diep.

8 Q. And what is your wife's name, and how many children do you
9 have?

10 A. My wife is Phum Van. We have four children, that is, two sons
11 and two daughters.

12 JUDGE LAVERGNE:

13 I believe that <now, from the moment> when the floor was given to
14 the witness, the technical problem arose again, so <we had static
15 again and> the sound quality is a problem now, so I think we
16 really have to look into the matter.

17 (Technical problem)

18 [09.33.17]

19 BY MR. PRESIDENT:

20 Q. Mr. Witness, based on the greffier report that, to the best of
21 your knowledge, you have no relationship, by blood or by law, to
22 the two accused that are Nuon Chea and Khieu Samphan and the
23 civil parties admitted in this Case 002; is this information
24 correct?

25 MR. NOEM OEM:

10

1 A. Yes, that is correct. I am not related in any way to Khieu
2 Samphan or Nuon Chea. I never knew them, nor met them.

3 Q. Thank you, Mr. Witness.

4 And you have already taken an oath before the Iron Club Statue;
5 is that correct?

6 A. Before I came in to testify in this courtroom, I already took
7 an oath before the Iron Club Statue.

8 [09.34.32]

9 Q. Thank you, Mr. Witness.

10 Next, the Chamber would like to inform you of your rights and
11 obligations as a witness.

12 Your rights: As a witness in the proceedings before the Chamber,
13 you may refuse to respond to any question or to make any comment,
14 which may incriminate you. That is your right against
15 self-incrimination.

16 Your obligations: As a witness in the proceedings before the
17 Chamber, you must respond to any questions by the Bench or
18 relevant parties except where your response or comment to those
19 questions may incriminate you as the Chamber has just informed
20 you of your rights as a witness.

21 You must tell the truth that you have known, heard, seen,
22 remembered, experienced or observed directly about an event or
23 occurrence relevant to the questions that the Bench or parties
24 pose to you.

25 [09.35.46]

11

1 Mr. Witness, have you ever provided testimonies or interviews
2 with the OCIJ investigators and, if you did, how many time it
3 happened and where they happened?

4 A. I provided interviews to the investigators at the Khmer Rouge
5 Tribunal one time.

6 Q. Thank you.

7 And before you came into this courtroom, have you already
8 reviewed the statements that you provided in the interview with
9 the OCIJ investigator in order to refresh your memory?

10 The floor is given to the defence counsel for Khieu Samphan.

11 MS. GUISSÉ:

12 Excuse me, Mr. President. I don't know about the other French
13 listeners, but the most recent response was not <audible> at all.
14 <The technical issues have started again, so I don't know if it
15 is going in and out, I don't know if it is> the microphone of one
16 of the interpreters, but I didn't hear a single word of the last
17 answer of the witness.

18 (Judges deliberate)

19 [09.37.53]

20 BY MR. PRESIDENT:

21 The Chamber try to continue a bit and see what will happen.

22 Q. Thank you, Mr. Witness.

23 Before you entered this courtroom, have you already reviewed or
24 read the statements you provided to the OCIJ investigators in
25 order to refresh your memory?

1 MR. NOEM OEM:

2 A. Yes, I have reviewed it, and I can say that I can confirm my
3 recollection of it.

4 Q. Thank you.

5 Based on your recollection of it, can you tell us whether what
6 was written in the statements was consistent with what you
7 provided during your interview with the investigator?

8 [09.39.07]

9 A. I have read and provided my statement during the interview
10 about my role as a photographer at S-21, and yes, they were
11 consistent with each other.

12 MR. PRESIDENT:

13 Thank you.

14 For the hearing of the testimony of this witness, pursuant to
15 Rule 91bis of the ECCC Internal Rules, the Chamber give the floor
16 to defence counsel for Nuon Chea first to question this witness.

17 And the combined time for the defence counsel for Nuon Chea and
18 Khieu Samphan are two sessions.

19 You may now proceed.

20 [09.40.01]

21 QUESTIONING BY MR. KOPPE:

22 Thank you, Mr. President.

23 Q. Good morning, Mr. Witness. My name is Victor Koppe, and
24 international lawyer for Nuon Chea. And I would like to ask you
25 some questions today about your position as chief of the

13

1 photography unit in S-21. But before I do that, let me ask you
2 some preliminary questions first.

3 One thing is that I am -- I just noticed that there is no duty
4 counsel beside you -- sitting beside you, that is, a lawyer
5 advising you about your rights to remain silent.

6 Have you been given the opportunity to be assisted by a duty
7 counsel?

8 MR. NOEM OEM:

9 A. No, I did not receive it.

10 [09.41.14]

11 Q. Mr. President, I went back to the transcripts of earlier S-21
12 personnel testimony. I have noticed that both Him Huy, Suos Thy,
13 Tay Teng and I think others as well received the assistance of a
14 duty counsel. This witness is the chief -- or was the chief of
15 the photography unit, so I'm not quite sure what happened there.
16 One follow-up question first, Mr. Witness. I've seen in both your
17 WRIs that you have been in prison for 10 years between 1996 and
18 2006. Is that correct? Were you detained for a period of 10
19 years?

20 A. Yes, that is correct.

21 Q. And was that detention because of your role in S-21 or was it
22 because of something different?

23 A. No, it's not related to my role at S-21.

24 [09.42.48]

25 THE KHMER INTERPRETER:

14

1 The interpreter cannot hear the witness.

2 MR. PRESIDENT:

3 Counsel, did you receive the answer from the witness?

4 MR. KOPPE:

5 I did, yes. Yes.

6 JUDGE FENZ:

7 The French speakers heard it, too?

8 [09.43.41]

9 BY MR. KOPPE:

10 Q. Yes. Those 10 years in prison, Mr. Witness, why was that?

11 MR. NOEM OEM:

12 A. When I was imprisoned, I assisted other people, and those
13 people instead they got angry with me and asked -- in that
14 situation, I tried to help stop them having conflict with each
15 other, but they felt angry with me and they wanted to attack me.
16 <I escaped their attack three times. Eventually I could not run
17 away> so I grabbed a stick and hit him. <I hit his hand but it
18 landed on his neck.>

19 Q. Were you ever in prison because of your role in S-21 right
20 after 1979?

21 A. No, no one knew that I was the former photographer of S-21
22 because I used two names. I changed my name from <> Nim Kimsreang
23 <to Noem Oem>.

24 [09.45.24]

25 Q. Thank you.

15

1 Mr. Witness, let me start by asking you some questions about what
2 you did before the liberation of Phnom Penh in April '75, and let
3 me see if I can summarize it for you so that we can do that a bit
4 quicker.

5 Is it correct that before 1975, you were a member of Division
6 703, a division that was led by Ta Nat, that you were in
7 Battalion 116, that you were a deputy squad leader, and that, at
8 one point in time, you were wounded, I think, at a time when the
9 division was still called Division 12? And is it correct when I
10 say that it was Ta Nat who sent you to study and be trained as a
11 photographer?

12 A. Yes, that is correct because Ta Nat was the one who sent me to
13 Ta Srey Moeun (phonetic) alias Rith.

14 [09.46.55]

15 Q. And why was it that Ta Nat asked you to train -- to be trained
16 as a photographer? Why was it you that had to study photography?

17 A. The reason was that, at that time, I was wounded and I was
18 wounded on the day that the city fell. And I <was discharged from
19 the hospital and I> met Srey Moeun, and Srey Moeun sent me to Ta
20 Nat to work as a photographer.

21 Q. Is it correct that not only you, but also other people from
22 Division 703 were asked to become photographers, that you had a
23 team of six persons?

24 A. Yes, there were six of us from Division 703. Three of them
25 were sent to study in China and three were kept to work at the

16

1 place. For those who were illiterate were sent to study in China.
2 For the literate ones were kept to work in -- at the place. And
3 then one of the photographers escaped to Thailand. <Two
4 mechanics also escaped.>

5 I was so scared at that time because that person who escaped to
6 Thailand brought along documents and guns, and all of my
7 belongings, so I was so scared. <Then I was sent to different
8 places in a day. I was sent to the place close to the prison.
9 That's all I can tell.>

10 [09.49.08]

11 Q. And is it correct that the three that stayed behind to learn
12 photography were you, Srun Song and Kang Nit?

13 A. Yes, that's correct.

14 Q. And is it also correct that you were the group leader of those
15 three who stayed behind? You were the group leader of Srun Song
16 and Kang Nit?

17 A. Yes, I am the group leader or team leader.

18 Q. Do you recall when it was that Ta Nat sent you, Srun Song and
19 Kang Nit to S-21?

20 A. At that time, Ta Nat drove <a car>. I don't know what make is
21 it -- make it was. It was made <> in the US. And he drove three
22 of us to S-21.

23 Q. When you speak about S-21, do you mean the premises of what is
24 now called the Tuol Sleng museum?

25 A. Yes, it is the current Tuol Sleng museum.

17

1 [09.51.10]

2 Q. Were you, Srun Song and Kang Nit stationed at S-21 to work as
3 photographers from the very beginning of S-21, April-May 1976?

4 A. Yes, we started working there since 1976.

5 Q. And did the three of you work at S-21 all the way until the
6 very end, January 1979?

7 A. Yes, that's correct.

8 Q. On two occasions in your WRI, E3/7639, respectively page
9 English, ERN 00162733; and Khmer, 00162709; French, 00338076, and
10 a bit further as well; you say there was only the three of you
11 working in the photography unit and also that there were no
12 photographers in S-21 when you first arrived. Is that correct?

13 A. Yes, that's correct.

14 [09.53.05]

15 Q. Now, let me ask you something about someone you mentioned in
16 your WRI, someone you referred to as "Little En", Nhem En.

17 Do you recall a little boy at the time named Nhem En, or Little
18 En?

19 A. Yes, I can recall it. Nhem En was small at that time. When
20 those children were brought in by Nat, I saw among those group of
21 children who were brought in, including some of my relatives. And
22 I realized about what would happen in the future, because I knew
23 that if we train the young one, if the young one became an expert
24 and then the instructor would be killed, so I did not transfer
25 all my knowledge to the young trainee. I had to make sure that

18

1 they did not receive all the skills. They knew only how to take
2 photograph, but not any other relevant skills. <After Nhem En
3 arrived, I told my colleagues that they instructed him on how to
4 take photography, not other skills. I was free after the
5 liberation day.>

6 MR. KOPPE:

7 Before I will ask some more questions about Nhem, Mr. President,
8 with your leave, I would like to show two documents at the same
9 time: one is document E3/10600, 10600. It is the photo of Nhem
10 En. And the book from Nhem En, which is now in the case file.
11 And with your leave, the Court officer could please give this --
12 these two documents to the witness.

13 [09.55.22]

14 MR. PRESIDENT:

15 Yes, your request is granted.

16 Court officer, please take the document to the witness.

17 JUDGE FENZ:

18 Just can you just identify for the record with the ERN number?

19 BY MR. KOPPE:

20 I definitely will. I just gave my copy to the witness, but I will
21 do once it's back.

22 Meanwhile, I have the ERN. English, it's 00162874. It is Annex A.
23 That's his document. And the first page of his book, the ERN, I
24 will give that to you shortly.

25 Q. Mr. Witness, is that the Nhem En that we speak about?

1 [09.56.30]

2 MR. NOEM OEM:

3 A. Nhem En at that time was quite young, but we never met each
4 other now. I heard only his voice on the Radio <Free Asia>. <> I
5 have never met him until now.

6 Q. Do you recall when Nhem En came to work or assist you -- or,
7 rather, learn photography under your supervision? When was that
8 while you were at S-21?

9 When did you start teaching Nhem En?

10 A. After my brother was removed from the bodyguard units to
11 <plant vegetables>, at that time, I realized about what would
12 happen. It was at that time that Nhem En was sent along with
13 other two young men. He was trained during daytime. At night
14 time, they went back to sleep at their respective unit. <There
15 were only three of us stayed in the photography unit.>

16 Q. But do you know when it was that Nhem En and the other two
17 came to your unit to learn how to make photos?

18 A. At that time, I did not know much because we knew only about
19 what happened at our place where we was responsible for. We did
20 not have the rights to move around. <I only knew that he was sent
21 by Ta Duch.>

22 [09.58.42]

23 Q. Let me see if I can jog your memory a bit. It's a long time
24 ago.

25 You give various answers as to time, but if I understand your

1 answers correctly, you said that Nhem En came to S-21 mid-'78,
2 late '78, six months before the fall of Phnom Penh around the
3 time that Nat was arrested. Could that be correct?

4 A. Yes, that is correct.

5 Q. So when Nhem En came to you to learn how to make photos, did
6 he already have any prior knowledge? Did he know how to use a
7 camera? Did he know how to develop films? Did he know anything
8 about how to make photos or did he have to learn all the basics?

9 A. At that time when Nhem En arrived, he did not possess any
10 photography skills yet. I only taught him how to take
11 photographs. I did not teach him how to mix the fluid because I
12 felt that if I taught him many skills, he would not be able to
13 catch them all, so I taught him only one skill <at a time>. That
14 was taking photograph.

15 [10.00.34]

16 Q. Would it be fair to say that when you first met Nhem En in
17 S-21, he was totally clueless about how to make photos?

18 MR. PRESIDENT:

19 Prosecutor, you have the floor.

20 MR. LYSAK:

21 I think that's a leading question. The witness has already
22 provided a substantive answer of his recollection, at least,
23 which is obviously inconsistent with a lot of the evidence, but
24 counsel shouldn't be leading the witness and putting words into
25 his mouth like "clueless".

1 [10.01.22]

2 BY MR. KOPPE:

3 Let me do -- let me do it differently. I have no problem.

4 Q. When you first met Nhem En, did he show any advanced knowledge
5 of how to make photos? Did he tell you about photography
6 education he followed or he had followed in China or that he was
7 a photographer during very important visits of Chinese leaders at
8 various dams in the country?

9 MR. NOEM OEM:

10 A. Speaking about Nhem En, although he says that he learned
11 photography skills in China, but from the way I observed, he
12 could not even insert the film properly into the camera. Although
13 he boasted <on RFA> about his photography session in China, how
14 could that happen since he could not even insert the film
15 properly?

16 And he spoke about the selection of three individuals from the
17 division to study in China, and if that was the case, then how
18 could he come to learn from us? And if <he knew> everything, then
19 I would be put in prison because I knew that that was indicative
20 when they were sent to study from us because a lot of people had
21 been arrested already.

22 [10.03.12]

23 And those who were accused of being in the traitorous network of
24 Americans, they would be killed, but if they were linked to
25 "Yuon", then they would be spared. And I was probably accused of

1 being part of the "Yuon" network, and that's how I survived.

2 Q. Finishing up with Nhem En, Mr. Witness, let me read to you
3 what he has said in an interview with, I believe, two Americans,
4 Doug Niven and Peter Maguire. That is document E3/7495; English,
5 ERN 00078256; Khmer, 00826558; French, 00795351.

6 So this is Nhem En talking, Mr. Witness. He says -- the question
7 is: "Who were your assistants?"

8 And he says: "My assistants were Ry, Sam, Nit, Song and Srieng",
9 you.

10 So he is actually saying that he was the chief and that you were
11 his assistant; is that correct?

12 A. That was cheating, and it was not a cheating for only one
13 person, but it was a cheating for everyone in the country <and
14 the world. He did not say the truth>. <Unfortunately,> some of my
15 people disappeared at the mountain, and maybe if you want to know
16 more clearly, you should ask Duch about that, about who was in
17 charge of that section. He knows it very well.

18 [10.05.23]

19 Q. Correct. Duch confirms that Nhem En had no role to play. Suos
20 Thy doesn't know Nhem En.

21 Duch says that you were the number one of the photography unit,
22 and Song was the number two of the photography unit. Is that
23 correct?

24 MR. PRESIDENT:

25 Prosecutor, you have the floor.

1 MR. LYSAK:

2 Yes, Mr. President. I just want to object to counsel continually
3 putting assertions on the record without any citation to the
4 evidence because Duch did not deny that Nhem En had any role at
5 S-21. He confirmed that he did. And Nhem En never testified in
6 this courtroom that he was the chief. That is something that was
7 in one interview. He did not say that in this courtroom.

8 [10.06.23]

9 BY MR. KOPPE:

10 It's no problem.

11 Q. Let me first talk about Duch's testimony in relation to
12 Sreang, the witness, and Song. In E3/7457, that is, 9 July 2009
13 in his testimony in Case 001, he says:

14 "Sreang was the head of the photographers' team who regularly
15 controlled the team."

16 He says in his testimony on the 4th of August 2009, E3/7468:

17 "The chief was Nim Kimsreang, the chief of the photographers,
18 then followed by Comrade Song, who took photographs at Prey Sar."

19 And in his testimony on the 27th of April 2009, Duch says, in
20 E3/5793:

21 "Your Honour, the chief was Sreang. Sreang. I asked him to take
22 photo of the victim who had recently arrived. It was Comrade
23 Sreang who did the map shoot. He was the chief of the group.
24 Number two was Comrade Song."

25 [10.08.01]

24

1 I'm happy to also find the evidence of Suos Thy not knowing Nhem
2 En at all, but I don't think that's necessary.

3 But my question, Mr. Witness, is, is it correct that Nhem En had
4 no important role to play whatsoever in the photography unit?

5 MR. NOEM OEM:

6 A. Yes, that is true. Nhem En did not have any role to play. He
7 only came to study photography. And Suos Thy, what he said is
8 also correct.

9 And as myself, I did not have any authority to wander around. I
10 was sent to take photograph of the prisoners, then returned to my
11 location. And I agree with Suos Thy's statement because Nhem En
12 had no role to play, so he was the one who stayed outside the
13 compound.

14 [10.09.19]

15 Q. Very well. Thank you, Mr. Witness.

16 Now let me move on to your task at S-21. What was your job, what
17 was your task while you were at S-21 for almost three years?

18 A. My main role <was> to take photography and to develop the
19 films. When I was assigned to go to take photos, I would go to
20 take photos, and when I returned, I developed the films. <That's
21 all.>

22 Q. Do you recall where you and Song and Nit were living while you
23 were working at S-21?

24 A. I did not get your question. Are you talking about when we
25 were <leaving> when the "Yuon" attacked us?

1 When I was in Division 703, some people fled to Thailand. That

2 <was> when I was a photographer at 703.

3 [10.10.52]

4 Q. Sorry. Maybe my question wasn't clear. I'm happy to repeat it.

5 Where were you and your two colleagues living while you were

6 working at S-21? Is it correct that you were living, the three of

7 you, in a house close to Duch's house?

8 A. Yes, that is correct. The three of us lived and worked

9 together.

10 Q. And in this house -- let me rephrase.

11 Was it this house that was used by you and the other two to

12 develop the negatives of the photos that were made inside the

13 premises of S-21?

14 A. The house that I lived was also used to develop the negatives

15 and the photos, and we constantly worked there.

16 Q. Mr. Witness, you have indicated that your house was about 50

17 or 70 metres northwest of Duch's house.

18 Mr. President, with your leave, I would like to show the witness

19 document E3/10603; English, ERN 00210940. This is a plan of Phnom

20 Penh, the premises around S-21, and it also has houses on the

21 side. And I would like to show this to the witness, with your

22 leave, and to ask him whether he can identify the house on this

23 particular map.

24 [10.13.15]

25 JUDGE FENZ:

26

1 Did you plan to put it on the screen?

2 MR. KOPPE:

3 Yes, we were. Sorry. Yes.

4 MR. PRESIDENT:

5 Yes, you can proceed.

6 And AV Unit, please project the document where requested. And

7 Court officer, deliver the hard copy to the witness.

8 (Short pause)

9 [10.14.05]

10 BY MR. KOPPE:

11 Q. I'm not sure if it's on the screen, but Mr. Witness, we have

12 circled on the right side three houses which might have been --

13 I'm not sure, but might have been the location of the house you

14 were living in and developing the photos.

15 Do you recognize any of those three houses that you see on the

16 right side of the page, which are indicated as interrogation and

17 documentation house and former houses of Duch?

18 MR. NOEM OEM:

19 A. Yes, I recall that's the house that I worked is circled in

20 blue, and Duch's house is next, maybe about 50 or 60 metres away

21 from where I lived.

22 JUDGE FENZ:

23 You need to identify it somehow for the record because the

24 circled thing is not on the -

25 [10.15.27]

1 MR. KOPPE:

2 No, because we couldn't, of course --

3 JUDGE FENZ:

4 I have no problem with the use of this, but for the record, we
5 need to identify what he actually identified.

6 MR. KOPPE:

7 I suggest we -- also because of the time that we take back the --
8 that plan and then describe for you -- for the Chamber what,
9 exactly, it was that he pointed out.

10 MR. PRESIDENT:

11 Court officer, please return the document to Nuon Chea's counsel.

12 MR. KOPPE:

13 I was already wondering why he said "blue" because there's no
14 blue circling. There's a yellow circle and two orange ones.

15 [10.16.33]

16 JUDGE FENZ:

17 Which is exactly why I said what I said because it was so
18 unclear. Perhaps he can again be asked to --

19 MR. KOPPE:

20 Yes. Mr. Witness, could you -- and I heard some -- at one point
21 there was also a camera that can actually focus on the witness
22 himself. Maybe we can use it for once.

23 JUDGE FENZ:

24 Or the Court officer sits beside him and reads -- let him point
25 to the one and reads the description.

1 [10.17.08]

2 BY MR. KOPPE:

3 Q. So I'm asking you again to point out the house where you and
4 Song and Nit were living.

5 MR. PRESIDENT:

6 Prosecutor, you have the floor.

7 MR. LYSAK:

8 Yes. I just wanted to ask so that we're clear, the circles that
9 are on this, are they the circles that OCIJ put on or they're
10 additional circles that you've added? Is that correct?

11 BY MR. KOPPE:

12 That is correct.

13 Q. Mr. Witness, could you one more time point out the house that
14 you and Song and Nit were living in and then tell the Court
15 officer next to you?

16 MR. PRESIDENT:

17 Again, Court officer, please hand over the document to the
18 witness for his examination.

19 (Short pause)

20 [10.18.52]

21 JUDGE FENZ:

22 Witness, can you identify the house counsel asked for?

23 MR. NOEM OEM:

24 Yes. Let me tell the Court officer who sits next to me, and
25 that's the house that I lived. The house circled in yellow is the

1 house that I lived in, and the other house is Duch's house. And
2 about the other house that is circled, I did not go there.

3 JUDGE FENZ:

4 Which colour is Duch's house circled?

5 MR. KOPPE:

6 It is -- maybe I can -- okay. Yes.

7 MR. NOEM OEM:

8 It is in orange colour.

9 [10.19.43]

10 JUDGE FENZ:

11 And the Defence will tell us in the end, for the record, which
12 circles they have made and what is -- what buildings are shown.

13 BY MR. KOPPE:

14 Q. Just to be 100 percent clear, we have two orange circles,
15 which one: the top one or the bottom one?

16 Maybe the Court officer can assist us.

17 MR. NOEM OEM:

18 A. Duch's house is the one below, that is, the orange colour
19 below.

20 Q. And the yellow colour is the house that you were living in.

21 A. And I did not know about the upper orange colour house.

22 [10.20.25]

23 Q. And for the record, the yellow house is described as

24 "Interrogation and documentation house number 12, Street 348",

25 referred to in D49/8, written record of interview Seang Dany.

1 JUDGE FENZ:

2 Counsel, I think the easiest thing is if you give us a copy -- a
3 colour copy of this and we attach it to the record. So it's not
4 admitted into evidence, but it's obviously a visualization tool
5 which tool, which should be attached to the record.

6 MR. KOPPE:

7 Yes, we will. Thank you.

8 MR. PRESIDENT:

9 Prosecutor, you have the floor.

10 [10.21.16]

11 MR. LYSAK:

12 Thank you, Mr. President.

13 I just want to -- since I don't have a copy of the marked-up
14 version, just is it -- am I -- do I understand correctly the
15 witness has just indicated that he lived in an interrogation
16 house? Is that what just took place?

17 MR. KOPPE:

18 No. That's the description of that house. Whether the description
19 is correct, I don't know. But that's just what is said on
20 E3/10603.

21 Maybe the annex wasn't correct, and was it actually the house of
22 -- but that's something I'm going to continue asking because I'm
23 very interested in the developing of the photos in that house. So
24 I will address that question.

25 MR. PRESIDENT:

1 And Counsel, you may resume your questioning.

2 [10.22.23]

3 BY MR. KOPPE:

4 I was mindful of the time, but I'm very happy to, Mr. President.

5 Q. Mr. Witness, can you recall a bit as to where in the house was
6 the equipment for developing of negatives? Where was the
7 darkroom, for instance, where did you keep the chemicals, the
8 measurement tools, etc.? Could you describe that a little bit for
9 me, please?

10 MR. NOEM OEM:

11 A. Yes, I can recall that. The films and the papers and the
12 chemicals were stored in the < developing> room itself because
13 the room was pretty large <and air-conditioning to protect all
14 equipment.> And everything was <not> stored <elsewhere besides>
15 the developing room.

16 Q. And all the necessary chemicals and equipment for developing
17 negatives, was it always in that particular house from the very
18 beginning that you, Song and Nit entered up until 7 January '79?

19 A. I collected those materials from elsewhere and stored them in
20 that room in order to preserve the integrity of the chemicals, of
21 the films and the papers.

22 [10.24.21]

23 Q. I understand. But my question was, was it always there, always
24 in that particular house that you stored all the necessary
25 equipment? Was it always there between May '76 and January '79?

1 A. I stored that in that one location.

2 Q. For now my last question in relation to that house, Mr.

3 Witness, was it only you, Nit and Song living there, or at any
4 point in time did also other people come to live with you there?

5 A. Only the three of us lived there. Even Nhem En, he never slept
6 there, and not even to rest -- even to rest during the daytime.

7 I did not even allow him to enter the developing room. He only
8 came here for a period of time, then he had to leave. And the
9 <people> who remained there were only the three of us.

10 [10.25.57]

11 Q. Now, let me ask you about the development process itself. Can
12 you tell us a bit about how you developed negatives? Was that a
13 difficult task or was it something that sometimes went wrong?
14 Can you give us a bit more details about that, please?

15 A. The most important thing is when we had to so-called cleanse
16 the negatives. If the chemicals were not mixed properly, then it
17 would destroy the negatives, so mixing the chemicals is the most
18 important factor. And if the negatives touched one another, maybe
19 only one or two are damaged.

20 As for developing the photo, if one or two photos were destroyed,
21 they could be reproduced, but the most important thing is for the
22 negative itself. The process had to be very careful.

23 Q. I'm asking you this because in your WRI, E3/7639; English, ERN
24 00162736; French, 00338079; and Khmer, 00162713; you explain that
25 a few times photos were damaged and that you had to make the

1 photos again.

2 Did you say that? Do you recall that? And is that correct? Is
3 that what happened sometimes; photos were damaged?

4 [10.28.05]

5 A. Yes. Sometimes when the photos were damaged, we could
6 reproduce them. However, if the negatives were damaged, then we
7 had to retake the photos.

8 MR. PRESIDENT:

9 Thank you, Counsel.

10 Since the DVD is running out of space and we also need to have a
11 short break, we will take a 15 minutes' break from now.

12 (Court recesses from 1028H to 1050H)

13 MR. PRESIDENT:

14 Please be seated.

15 Next the Chamber objected to the request for extra time by Nuon
16 Chea defence team because <the request was just made in a short
17 time and> this will have a big impact on the scheduling of the
18 Chamber. <In addition, the Chamber will have a proceeding through
19 video link on Monday.>

20 And the Nuon Chea defence team also requested for an oral
21 submission on the invitation of another witness <today instead of
22 a submission on Friday.>

23 Now I give the floor to the Nuon Chea defence team to continue
24 putting question to the witness.

25 [10.51.29]

1 MR. KOPPE:

2 The ruling is completely unclear to me.

3 JUDGE FENZ:

4 Let me clarify. You made the submission this morning just before
5 we started. We have scheduling issues as it is. If we extend the
6 time now in this current circumstances, we end up having to
7 reschedule a video link on Monday because, obviously, this is --
8 this has a knock-on effect. So the general recommendation is, if
9 there are issues with time allocations, raise them earlier, not
10 at the time and it becomes basically impossible or extremely
11 difficult to accommodate them.

12 [10.52.08]

13 MR. KOPPE:

14 That is utter nonsense, Judge Fenz, and you know it. There's no
15 scheduling problem at all. We can just go --

16 JUDGE FENZ:

17 Counsel. Counsel, watch your language.

18 MR. KOPPE:

19 No. No, I will not.

20 JUDGE FENZ:

21 You got --

22 MR. KOPPE:

23 I will not watch my language.

24 JUDGE FENZ:

25 -- a ruling by the Chamber.

1 MR. KOPPE:

2 No. I will certainly not watch my language.

3 This is the chief of the photography unit. You have an impostor
4 in Nhem En coming to testify, and this is a very important
5 witness when it comes to S-21, and you just say "No"?

6 [10.52.31]

7 JUDGE FENZ:

8 Counsel, if you can, after we are done, make a reasoned request
9 why we should recall him, we will consider that.

10 BY MR. KOPPE:

11 Oh, well.

12 Q. Mr. Witness, let me continue, and let me follow up an
13 objection from the Prosecution in relation to Nhem En before I
14 move to the actual photography process.

15 [10.53.03]

16 The lawyer of Khieu Samphan was kind enough to remind me of Nhem
17 En's answer to the question about him being the chief of the
18 photographers, and let me read to you what he said and then I
19 will ask your reaction.

20 The 21st of April just before 9.45, Nhem En said the following,
21 and I quote:

22 "I came back from China in the training. I did not hold a higher
23 position, but I considered myself the chief. But in there, it was
24 divided into two parts, and as I said earlier, I was a squad
25 chief, and Sreang was a squad chief as well. I learnt all the

1 techniques in China, such as film making, developing photographs,
2 map drawing. And although I was not specialized in those fields,
3 I had more knowledge in that area than the others. That is why I
4 considered myself to be the chief."

5 Can you give a reaction to that, please, Mr. Witness, of what --
6 about what Nhem En is saying here?

7 MR. NOEM OEM:

8 A. I felt is a joke because Nhem En was too young at that time,
9 and he said that he had been sent to study in China. <There were
10 only three people from Division 703 sent to study in China. I did
11 not have a chance to do it. Only the illiterate were sent to
12 study in China.> I do not believe at all that he knew or
13 possessed such skills because he was too young. <If he was
14 skillful, why did he ask me to teach him?>

15 [10.54.56]

16 Q. You said earlier he didn't even know how to put a film in the
17 camera, reminding you of what you said earlier in this respect.

18 Is Nhem En lying about his role as photographer at S-21?

19 A. Yes, that is correct because when he arrived, he did not
20 possess any knowledge in photography. <I wanted to test him so I
21 asked him to put a film in the camera. He couldn't do it
22 properly.> So when he said that he had been sent to study in
23 China and he was the squad chief, that was not true because at my
24 place, there were only three of us who were in charge of
25 photography. <Nhem En came to study for a short time each day and

1 he returned to his place.>

2 Q. Thank you, Mr. Witness.

3 Now let me move on to the actual taking of photos in the compound
4 of S-21.

5 Mr. President, with your leave, I would like to show photos
6 listed in a document, E3/9214. These are sets of photos taken
7 within S-21.

8 What I would like to suggest is that I give the binder with all
9 those photos to the witness. Meanwhile, my team will put on the
10 screen the photos that are in this binder and in this E3
11 document, and I'm going to ask the witness to scroll through
12 those photos. Meanwhile, we'll also scroll through the photos so
13 that you can see it on the screen.

14 [10.56.46]

15 JUDGE FENZ:

16 Just for the record and taking into consideration the previous
17 experience, have you marked anything on these documents?

18 MR. KOPPE:

19 No, none whatsoever because I'm not -- I'm not sure what he is
20 going to recognize, so there's no marks in there.

21 MR. PRESIDENT:

22 Court officer, please take the documents from the defence counsel
23 for Nuon Chea to the witness.

24 (Short pause)

25 [10.57.35]

1 MR. KOPPE:

2 So with your leave, Mr. President, I -- hopefully, AV Unit can
3 put the content of this photo map on the screen as well so that
4 the public is in a position to follow.

5 MR. PRESIDENT:

6 The Chamber granted your request.
7 AV Unit, please display it on the screen.

8 MR. KOPPE:

9 And --

10 MR. PRESIDENT:

11 The floor is given to Judge Marc Lavergne.

12 [10.58.15]

13 JUDGE LAVERGNE:

14 Yes, Counsel Koppe, you've given E3/9214. This reference
15 corresponds to the list of photos. It gives a list of names.
16 Can you give us the reference of the photos themselves, please?

17 BY MR. KOPPE:

18 As a matter of fact, it is E3/9214A. A, so the letter A. And
19 there you will see all the photos used by the Prosecution when he
20 was examining Nhem En. These are the photos given to us by DC-Cam
21 with handwriting on the back.

22 So maybe to facilitate things, Mr. President, it would be useful
23 if the Court officer would sit next to the witness.

24 Q. Mr. Witness, I'm seeing that you're already flipping the
25 pages. Let me do the same thing on screen.

1 [10.59.30]

2 MR. PRESIDENT:

3 Deputy Co-Prosecutor, you may have the floor.

4 MR. LYSAK:

5 Yes, thank you.

6 I don't have an E3/9214A, but I do have these photographs, just
7 for the Court's reference in case anyone else is having trouble
8 finding them, as E3/9837, E3/9837.

9 BY MR. KOPPE:

10 They're also known, by the way, as E3/94.1. It is a set of
11 original -- or copies of original vintage photos.

12 So hopefully it is on the screen now.

13 Q. Mr. Witness, I have showed you photos that were presumably
14 made at S-21. Do you recognize any of those photos?

15 [11.00.42]

16 MR. NOEM OEM:

17 A. I cannot recall all of them because there were <> only three
18 of us who were the photographers. If it was not me who was the
19 one who took those photos, it was the other two members of my
20 team, <Song and Nit>. <Only three of us who could take photos at
21 that time. There was nobody else.>

22 Q. I apologize for not making myself clear, Mr. Witness. I'm not
23 asking you to identify any of the people that you see. I just
24 want to ask you to flip through the pages and to tell me if these
25 photos were photos that were taken at S-21.

1 Do you recognize the size, the way these photos looked as coming
2 from S-21?

3 A. Yes, that's true. At S-21 sometimes the photos were taken of
4 those individuals who were standing against the walls <or the
5 windows.>

6 [11.02.05]

7 Q. Mr. President, the moment the witness is answering questions,
8 the screen does not show the photos, so maybe, with your leave,
9 you can instruct - or, AV Unit can be instructed to keep the
10 photos on the screen so that everyone can follow.

11 Mr. Witness, these photos were taken at S-21. If we scroll a bit
12 further, you can see that every page is being followed by the
13 back side of the particular photo, and every photo has a text on
14 the back of it. Can you have a look at these -- the back sides of
15 these photographs, please?

16 A. At that time, after the photos were taken, we developed them
17 and we sent them to Thy. And probably Thy was the one who wrote
18 the information.

19 [11.03.30]

20 Q. Can you please look a bit further and see if you actually
21 recognize the handwriting of Suos Thy or -- cause I'm not sure if
22 the handwriting is always the same. Can you please have a look at
23 the text of the back side of these photos?

24 A. At that time, I did not know who wrote at the back of the
25 photos. After we developed the photos, after we trimmed them up,

41

1 then we sent them to Suos Thy and probably he was the one who
2 actually organized the information<, names of the persons> as
3 regarding the entry date for example.

4 Q. That makes sense, Mr. Witness. Notwithstanding what you're
5 saying, Nhem En, in this courtroom, said it was actually your
6 handwriting on the back of all those photos; can you react to
7 that, please?

8 A. I do not accept what was said by Nhem En. My duties were to
9 take photos and to develop them. As for the writing of the names
10 and the date, it was another responsibility, that is, under Suos
11 Thy <because he controlled all the entries in the prison.>

12 [11.05.33]

13 Q. Thank you, Mr. Witness. Now, if you flip the pages and you
14 have a look at all those photos -- and maybe we can see that on
15 the screen as well -- you can see that all those people in the
16 first part of the folder, the binder, they have a number on their
17 chest. Do you see that; do you see that these people on the photo
18 -- on the photos have a number?

19 A. Nit, I, and Song were the one who puts the number. For
20 example, for myself, <> as a precaution, I put the number for
21 <the photos taken by me> and whoever took the photo would use the
22 numbering on the people that they took. <If the photos were
23 damaged, we would ask Thy for the persons with the numbers in the
24 photos to be photographed again.> And there is no set system on
25 the numbering of people who entered on a particular day; in fact,

1 it was the photographers, as in my case, then we use our own
2 numbering for the photographs that we took for that particular
3 day. <There was no set numbers of photos each day. It depended on
4 the photographers. For example, if there were 100 people and I
5 could take 20 or 30 people, how many photographs that Song took
6 and he referred to the number. It depended on individual
7 photographer and we kept numbers for our record.>

8 Q. Did it also happen -- when you have a look at these photos,
9 did it also happen that - that days no prisoners would arrive and
10 that you would wait until enough prisoners would have arrived and
11 then started photographing them and numbering them?

12 [11.07.49]

13 A. The numbering is not to denote the date, but it was the
14 photographer's identification as for example, on this particular
15 day how many photographs that I took and we refer to the number.
16 And as for Nit, he did the same, so if any of the photo was
17 damaged, then we would know as to which number was damaged <and
18 we took the photo again.>

19 And as I said, there was no fix numbering system for a daily
20 entry. When I took a camera with me, I knew that <> I could take
21 more than 30 photos for that film roll and <if the photos were
22 needed urgently, I needed to cut the roll of film, develop the
23 negative and print the photo. That's why the numbering was set by
24 the photographers.>

25 Q. Let me, in this regard, read to you what you have said to the

1 investigators, E3/7639; English, ERN 00162737; Khmer, 00162714;
2 French, 00338080. This is what you said:

3 "I wish to explain that among the three of us, sometimes, I did
4 not go; they went. And sometimes, few prisoners came in; like I
5 said, four to five people, and they were kept for four to five
6 days to wait for a larger number before they were photographed so
7 as to use up one roll of film at a time." End of quote.

8 Is that correct, did you -- because of not wanting to waste a
9 film roll, you sometimes waited for more prisoners to arrive
10 before taking a photograph?

11 A. Yes, that is correct because <if> we had to cut <the film>, it
12 means we would lose two slot or two slots for the photographs.
13 <If the film for 30 photos, we would get only 12 or 13 photos.>
14 So for that reason, we had to keep the film roll in the camera
15 until we used them up <and cleanse it.>

16 [11.10.35]

17 Q. So if, for instance, I see a number 32 on the chest of a
18 prisoner -- for instance, that is photo 182 on page P01223720 --
19 that doesn't mean that he is prisoner -- arriving prisoner 32 on
20 a day, but it could be a number of a much bigger group of
21 prisoners that had arrived on various days, correct?

22 A. Sometimes, a prisoner arrives and there was 32 of them and
23 that number would identified the -- that particular prisoner and
24 for example, if on another day there were 20 prisoners, then I
25 would start first with number 1 and ran until number 20 <for the

1 tracking purpose in case one or two photos were damaged.>

2 Q. Right. Now, if you would be so kind and go to your folder, the
3 second part of the photos.

4 Court officer, it's the tab number 2 and that is page P01223764,
5 and if you can put that on the screen, with your leave, Mr.
6 President, as well.

7 [11.12.28]

8 MR. PRESIDENT:

9 AV Unit, please show that page on the screen.

10 BY MR. KOPPE:

11 Yes and if we can scroll a bit further so we can see more photos.

12 Q. Mr. Witness, it seems that the tagging or the numbering of
13 these prisoners is not the same as the prisoners that I showed
14 you before. Now, all those prisoners have in front of them; not a
15 mere number, but text and a date, presumably, of entry. Now, it
16 seems that this was a method that was used starting in early '78;
17 is that correct and if yes, can you ask -- can you tell us how
18 that went about, the change of numbering and tagging?

19 A. As for the photographs which were taken at the front and to
20 the side, this practice was used in late 1978 and that was easier
21 for the identification and it was Duch instructions that two
22 photos should be taken: one the front and one to the side, as
23 well as the entry date at the front.

24 [11.14.15]

25 Q. I will get back to this, but is it -- besides the issue of two

1 photos, is it correct that the numbering changed early '78 with
2 the use of plates with a date on it and the name of the prisoner
3 on it and the -- is that correct?

4 A. The changes were to facilitate the confusions between the
5 photos and the names of that particular <> prisoner <in case the
6 photos were not properly taken or damaged>. <> The date of entry
7 and the name is affixed on the front of the photo <could help us
8 track the details of the person to be retaken the photos.>

9 Q. I -- do you recall what the system of numbering was? You see
10 not only a date and a name, but you can also see a number used
11 for the particular prisoner; was that a quarterly system; was it
12 a monthly system? How did the numbering go; do you remember?

13 A. Yes, as I said, the three of us were the one who used the
14 system of numbering and it was an individual system. <If we lost
15 the number, we tracked the film number> and there is no fix date
16 or numbering system to identify the total number of the
17 prisoners. <That's from my experience in developing photos.>

18 [11.16.22]

19 Q. I understand, but if we start at the first number of these --
20 the first set of these photos, page P01223764, I see prisoners
21 with number 312, 559, 659, 662, what does that number say; is
22 that -- are you saying that this is used by each of you
23 individually and if yes, how were you able to recognize that that
24 particular photo was taken either by you or by your two
25 colleagues, Song and Nit?

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1 A. It is difficult for me to recollect what was done by Nit and
2 Song as to the numbering system they use.

3 During the later part, I usually <asked> Song to take photos and
4 I only occasionally, myself, went to take photos.

5 [11.17.50]

6 Q. Then my last questions in relation to these photos for now.

7 Court officer, if you would be so kind and to go to tag number 3;

8 Mr. President, that is page 01P -- sorry, P01223835 and with your
9 leave, we can also have it shown on the screen.

10 Mr. Witness, these are photos of what seems to be cadres, but
11 without a number on the chest. If you -- if you will be so kind
12 to flip through the pages, do you recognize these photos; were
13 they taken by you or by your two colleagues?

14 A. <For> the photos of those who wore caps, they were staff
15 <working there. For the photos of the people without wearing
16 caps, I think they were> prisoners who were brought in. <Those
17 photos> did not have a number displayed on the front <because
18 they were not yet numbered. For the photos of the people wearing
19 caps, they were the cadres who worked in the prison.> But <for
20 the photos of the people> without wearing any caps or hat, they
21 were prisoners who were brought in by vehicles and these photos
22 were taken initially; that's why there was no numbering system
23 used.

24 [11.19.54]

25 Q. I have many more questions to ask you, but because of my

1 limited time, let me move back now to the developing of these
2 photographs.

3 We talked about photos being damaged sometimes during the
4 development process; if photographs were damaged during the
5 development process, what would happen; what did you -- what
6 would you do?

7 A. For photos which were developed and some were damaged, that
8 would be no problem; it means that only a paper is wasted and <>
9 it can be reproduced. However, during the developing of the
10 negative, if the negatives touched, then they were destroyed or
11 if the mixing of the chemicals were not proper, then it would
12 destroy the negatives as well.

13 Q. Do you recall instances where the development had gone wrong
14 and you had to re-photograph the particular prisoner; do you
15 remember any instance where this was the case?

16 A. Yes, there were cases; for example, for one roll of film,
17 during the process of developing, two or three slots of photos
18 were <sticked together. Two or three photos were> destroyed; then
19 we had to ask for authorization from Thy to retake the photos of
20 those prisoners.

21 [11.21.53]

22 Q. Let me, in this regard, read to you something that you said to
23 the investigators in your WRI E3/7639; English, ERN 00162734;
24 Khmer, 00162710; French, 00338076. This is what you said, and I
25 will ask you if that is -- you remember saying this -- and I

1 quote:

2 "One day when I was developing, photos were damaged and when I
3 requested to retake the photos, I could only find two of them and
4 I asked Duch, 'Brother, the prisoners brought in yesterday, where
5 have they all gone?' He, Duch, said they had all gone to the rice
6 fields, to go photograph them at the rice fields." End of quote.

7 Do you remember saying this to the investigators?

8 A. Yes, the photos were damaged; then I asked permission from Ta
9 Duch and he said that I should go to the rice fields and that's
10 what I did.

11 [11.23.30]

12 Q. But where were these photos taken; were these photos of
13 prisoners taken in the compound of S-21?

14 A. Yes and then the photos were damaged. People who did not have
15 implications were sent to work in the rice fields.

16 Q. So Duch said, "Go get these people at the rice fields in Prey
17 Sar"; did you go yourself in this particular incident and if yes,
18 were you able to recognize the people who had been photographed a
19 day or days before?

20 A. I recognized them because of the numbering system on the film
21 roll, so when I asked permission from Ta Duch, then I was sent to
22 <> retake photos at the rice field.

23 Q. Was there, just like at the Tuol Sleng premises, also an
24 office building or something where you would take those photos at
25 Prey Sar; where did you take those photos of the prisoners who

1 had been detained, just before that, at S-21?

2 [11.25.25]

3 MR. PRESIDENT:

4 Witness, please observe the microphone before you speak.

5 MR. NOEM OEM:

6 A. We took a machine to the place and we use a curtain as a
7 backdrop <> for taking the photos.

8 BY MR. KOPPE:

9 Q. In your WRI, the following page, English ER -- E3/7639;
10 English, ERN 00162736; Khmer, 00162713; French, 00338079; you
11 said the following:

12 The question is: "Those cases in which you retook photographs at
13 Prey Sar, did that happen many times?"

14 And then you answer: "Each time my photos were bad, I went to
15 photograph at Prey Sar, two or three times a year."

16 Is that an accurate description of what happened?

17 [11.26.52]

18 MR. NOEM OEM:

19 A. Yes, that is correct because when photos were damaged, then I
20 asked for his permission to retake those photos.

21 Q. Let me ask something different. First, the prisoners that were
22 photographed on the Tuol Sleng premises, where would they go to,
23 generally speaking; do you know?

24 A. I did not know about this arrangement. What I knew is that I
25 took the photos and after I finished that work, I returned to

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1 develop the negatives and I did not know where those prisoners
2 were sent to. <It was the duty of other unit.>

3 Q. Let me read what you said to the OCIJ, same ERNs as I just
4 read out before.

5 The question is: "After their photos were taken, where were the
6 prisoners sent?"

7 And then you answer as follows: "The majority of the prisoners
8 who had been photographed were sent to farm rice, but aside from
9 that; I don't know. Those prisoners sent to farm rice were mostly
10 minor people. I went along and photographed that. I saw that they
11 farmed rice."

12 Do you recall saying this to the investigators of the OCIJ?

13 [11.29.02]

14 A. What I mean is that when I took the photos at the premise and
15 the photos were damaged, then I would go to the rice field to
16 retake those photos and there were many people; thousands of
17 them, working in the rice fields<, both men and women>. That's
18 where they farmed the rice<, they produced palm sugar> and they
19 also raised livestock.

20 Q. What did you mean when you said, "The prisoners sent to farm
21 rice were mostly minor people"; what does that mean, "minor
22 people"?

23 A. It means that those who were subordinate and who did not have
24 any major role to play.

25 Q. And you spoke about thousands of people. In your WRI, you said

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1 you saw that they farmed rice; do you know if, from all of these
2 minor people farming rice at Prey Sar, their biographies had been
3 taken -- had been written down and the photos were taken at S-21?
4 Do you recall that; is that -- is that the case?

5 [11.30.51]

6 A. Sometimes, <after> their photographs were <> taken, then they
7 were sent there and for the rest of those who worked in the farm,
8 I did not know where they were sent from. But when I was there, I
9 saw a lot of people in the rice field and I did not know from
10 when those people were sent to farm in that area. <I did not know
11 when their units were established.>

12 Q. Let me read to you some something Him Huy said to the Chamber
13 in relation to the people sent to Prey Sar. That is his testimony
14 on the 3rd of May 2016 at about -- at around 15.39.

15 Question: "Were people ever sent from S-21 to Prey Sar and if so,
16 why?"

17 And then Him Huy says: "They were from their own units and then
18 arrived at S-21; however, they were not put directly into the
19 compound of the prison. They stopped at the main road. They were
20 -- they stopped at the main road and I was then asked to send
21 those prisoners to Prey Sar to work the fields."

22 And a bit further, he talks about using trucks to send people
23 from the outer premises of S-21 to Prey Sar.

24 And my question is: This incident that you talked about when Duch
25 was angry and you had developed incorrectly the negatives, he

1 told you to go to Prey Sar and re-photograph those people; am I
2 correct in saying that people who were sent to Prey Sar, their
3 photos were also taken by your unit at the Tuol Sleng premises?
4 [11.33.20]

5 A. As I said, when the photos were damaged, then I informed him
6 and then he said that <they were> sent to Prey Sar and that's
7 where I went to retake their photos.

8 Q. You said that this happened two or three times in a year. All
9 those two or three times in that year, the same thing happened:
10 You told Duch. Duch said, "Go to the rice fields and
11 re-photograph them at the rice fields."

12 A. Yes, he assigned me to retake those photos.
13 [11.34.16]

14 MR.KOPPE:

15 Mr. President, I'm mindful of the time; maybe I should break
16 here.

17 MR. PRESIDENT:

18 Thank you, Counsel.

19 It is now time for a lunch break. The Chamber will take a break
20 now and resume at 1.30 this afternoon to continue our
21 proceedings.

22 Mr. Noem Oem, it is now lunch break. You may also take a break
23 and please return to the courtroom before 1.30 this afternoon.
24 Security personnel, you are instructed to take Khieu Samphan to
25 the waiting room downstairs and have him returned to attend the

1 proceedings this afternoon before 1.30.

2 The Court is now in recess.

3 (Court recesses from 1135H to 1330H)

4 MR. PRESIDENT:

5 Please be seated.

6 The Chamber is back in session and I give the floor to the
7 defence counsel for Nuon Chea to continue putting question, but I
8 would like to remind you that you have used 90 minutes already.
9 <There are only> 30 minutes left for your teams and the defence
10 counsel for Khieu Samphan team.

11 [13.31.37]

12 BY MR. KOPPE:

13 Q. Good afternoon, again, Mr. Witness. I have some more questions
14 that I would like to put to you. Let me start about a completely
15 different, new subject.

16 In your WRI E3/7639; English, ERN 00162739; Khmer ,00162715;

17 French, 00338083; you talk about a rape that happened, a rape of
18 a prisoner. You said, "One medic raped a prisoner."

19 Do you recall saying that to the investigators?

20 [13.32.42]

21 MR. NOEM OEM:

22 A. Yes, I told the investigator that.

23 MR. PRESIDENT:

24 Mr. Witness, please wait until the microphone tips turn red or
25 you can adjust the position of the microphone.

1 MR. NOEM OEM:

2 A. Yes, I told the investigator the person who raped was the
3 medic. He raped the prisoner.

4 BY MR. KOPPE:

5 Q. Do you remember what his name was; do you remember who the
6 prisoner was and do you know what happened to the medic; did he
7 get punished?

8 MR. NOEM OEM:

9 A. I cannot recall his name and I cannot also recall the name of
10 the victim. Later on, the medic was imprisoned and he was
11 executed.

12 [13.34.03]

13 Q. He was executed because of his involvement in the rape of this
14 prisoner?

15 A. Yes.

16 Q. Thank you. In your WRI, again, E3/7639; this time English, ERN
17 00162735; French, 00338078; and Khmer, 00162712; you speak about
18 photographing two journalists; maybe Cuban, maybe Russian. Is
19 that something you recall having testified to to the
20 investigators of the OCIJ?

21 A. Yes, I took photos of two journalists. I do not know whether
22 they were from Cuba or Russia, but they had one camera with them.
23 It was either Pentax or Canon.

24 [13.35.46]

25 Q. In your WRI, you speak about a Pentax; you call it the German

1 camera. Why did you had to -- have to examine that camera; what
2 was -- who gave you that instruction and why was that?

3 A. When they were brought in, I was called to take their photos
4 and <Ta Duch asked me about the make of the camera.> I knew that
5 the camera was Pentax, made in Germany.

6 Q. Undoubtedly, this afternoon, the Prosecution will ask you
7 about making photos of children. You -- on that same page of your
8 WRI that I just referred to, you said that you never photographed
9 any children; is that correct?

10 A. I never took photos of children. <Perhaps my subordinates did
11 it.> When <people> were brought in small number, I rarely went to
12 take photos; only when large numbers of people were brought in
13 that I was called to take photos.

14 Q. I understand. Now, you were the main person responsible for
15 developing the negatives of those photos. I realize that
16 thousands of negatives were developed, but do you recall ever
17 having seen children on those negatives?

18 A. There were too many photos beyond my recollection. I rarely
19 saw the <large> numbers of children.

20 [13.38.26]

21 Q. So while developing photos, you do remember seeing, in rare
22 occasions, photos of children; are you able to, somehow,
23 attribute a percentage in terms of how many children you
24 developed -- how many negatives with children on it you developed
25 in terms of the total amount of photos?

1 A. Based on my estimate, only about 10 percent of them.

2 Q. Would it be possible that would be between 1.5 and 2 per cent?

3 MR. PRESIDENT:

4 Deputy Co-Prosecutor, you may have the floor.

5 MR. LYSAK:

6 Thank you, Mr. President. He asked the question. The witness gave

7 him an estimate. He doesn't like the answer and now he's trying

8 to lead the witness with his own number. This is a leading

9 question.

10 [13.39.45]

11 JUDGE FENZ:

12 If there is a basis for the percentage, then please present it.

13 BY MR. KOPPE:

14 Q. Well, we actually counted them and I'm allowed to ask a

15 leading question after having asked an open question first.

16 But Mr. Witness, is it possible that your percentage of 10 could

17 be a little bit high and that it is more 1 or 2 on every 100?

18 MR. NOEM OEM:

19 A. I saw them during developing the negatives, but not during the

20 developing the photos. They were brought in with their parents,

21 but I did not see their numbers in hundreds <nor thousands>. They

22 were in the numbers between <4>, 5 <or> 10 children <only>. <Some

23 children did not have their photographs taken.>

24 [13.41.02]

25 Q. Do you recall ever seeing these children back at Prey Sar when

1 you were there?

2 A. I never saw them there. Perhaps, they were with the female
3 units, but for the male unit; I never saw them mingling with
4 them.

5 At Prey Sar, there were two units, the male <unit> and the female
6 one<>. <They were in separated units.>

7 Q. Thank you. Now, let me move on to some questions in regards
8 the other cadres working at S-21. We briefly mentioned Duch.
9 You've also mentioned in your WRIs, one or two times, the number
10 2 of S-21, Hor; do you recall Hor?

11 A. Yes, I can recall him.

12 Q. And what is it that you can recall about him?

13 A. When I was at S-21, Hor was the deputy chief. Hor has one eye
14 blind. When the Vietnamese entered the country, we escape to the
15 mountain and Hor and Duch, at that mountain; they were not get
16 along with each other well <, according to my observation. Hor
17 often did not follow Duch's order since there was no order from
18 the top authority.>

19 [13.42.55]

20 Q. Do you know anything about the division of tasks and
21 responsibilities between Duch, on the one hand, and Hor, on the
22 other hand?

23 A. At that time, I did not pay attention to their roles. I only
24 received their order. For any affairs beyond that, it was between
25 them and the national -- Ministry of National Defence.

1 I heard Duch call, "Ta Kong (phonetic), Ta Kong (phonetic)" and
2 based on <> my own research, Ta Kong (phonetic) may be Son Sen.
3 [13.44.00]

4 Q. Let me read to you a few excerpts from Duch's testimony about
5 the division of tasks and responsibility -- responsibilities,
6 excuse me, between him and Hor. I will read two or three -- three
7 or four relatively short quotes; quotes that (unintelligible)
8 confirmed a few months ago in this courtroom.

9 Let me -- to make it a little bit understandable, first read the
10 quotes and then I will give you all the excerpts.

11 Mr. President, if you allow me.

12 So Duch said about Hor that - quote: "I only took personal charge
13 of important detainees. For the others, it was Hor who took
14 charge of the details. Hor took care of the Phnom Penh sector in
15 every field; interrogation, as well as document reading. Anything
16 that happened in the Phnom Penh sector would go through Hor
17 before it would reach me. Hor, he managed all the daily
18 activities at S-21. He was always occupied; that was the truth.
19 And for simple combatants, Hor controlled everything and could
20 order torture."

21 Now, again, I will give you all the places where you can read
22 those quotes.

23 Mr. Witness, before I do this, can you give me your reaction; is
24 that an accurate description of the division of tasks between Hor
25 and Duch?

1 [13.46.04]

2 MR. PRESIDENT:

3 Deputy Co-Prosecutor, you may proceed.

4 MR. LYSAK:

5 Yes, I don't understand waiting until after the witness has
6 answered the question. The reason for providing the ERNs and
7 references is that so that the rest of us in the courtroom can
8 check, so I'd ask that you do that before the witness answers the
9 question.

10 MR. KOPPE:

11 It's just a lot of numbers, little time, and -- but--

12 JUDGE FENZ:

13 Just provide the numbers.

14 [13.46.34]

15 MR. KOPPE:

16 All right, E3/5748; English, 00153568; French, 0013445; Khmer,
17 00153459; two, E3/1570; English, 00154193; Khmer, 00154223--

18 MR. PRESIDENT:

19 Please, slow down the ERN numbers so that the interpreter can
20 follow.

21 [13.47.19]

22 BY MR. KOPPE:

23 The second, E3/1570; English, 00154193; Khmer, 00154223; French,
24 00154208; E3/5792 at 11.43 in the morning; E3/5771; English,
25 00185500; Khmer, 00185492; French, 00185509.

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1 And as said, only a few months ago in this courtroom, all those
2 excerpts were read out and confirmed by Duch.

3 Q. Nevertheless, Mr. Witness, I hope you still recall what I just
4 read out to you. Basically, it boils down to Duch saying that Hor
5 was responsible for the not-so-important prisoners. He ran the
6 daily operation in Phnom Penh. For simple combatants, Hor
7 controlled everything. Is that correct or do you have a different
8 view?

9 [13.48.49]

10 MR. NOEM OEM:

11 A. I did not grasp it. I did not know about the division of roles
12 and tasks among the two people. Duch often came into contact with
13 Hor, but I did not know what's going on between them. <My task
14 was taking and developing photos.>

15 Q. Fair enough. No problem, Mr. Witness. Let me move to my next
16 subject.

17 You mentioned another cadre working at S-21 called Sry. Do you
18 remember a person named Sry -- Sry -- Sry, I'm not quite sure if
19 I pronounce it well?

20 A. Sry was a Party member. He was in charge of guarding the
21 senior leadership. He came to us for the paper and for the camera
22 and he said that it was the order from Duch, so I gave those
23 instruments to him.

24 [13.50.29]

25 Q. So was he needing those cameras for his tasks in relation to

1 the important prisoners?

2 A. Usually, I was the one who took photos and developed the
3 negatives. I had no idea why he was sent in to ask for the paper
4 to develop photos and the camera. Perhaps, there were senior
5 people who were brought in because I, myself, never took photos
6 of senior people. <I did not have any role in the Party at that
7 time. I was just a youth.>

8 Q. Is it your assumption that he was the one taking the photos of
9 the incoming, important prisoners; in other words, that he had
10 your task when it comes to the photographing of the important
11 prisoners?

12 A. Yes. I and my team members never took photos of people with
13 senior positions.

14 Q. Did you or your two team members, Song and Nit, ever take
15 photos of dead prisoners?

16 A. Yes, on some occasions, after those prisoner were beaten death
17 and then we were asked to take photos. They died in the detention
18 facility.

19 [13.52.32]

20 Q. I have some questions about that, but I will skip them because
21 of time.

22 Mr. Witness, did you ever photograph Vietnamese military
23 prisoners?

24 A. Yes, I took their photos.

25 Q. What is that you recall about taking those photos; were they

1 soldiers; were they officers? Do you know -- do you remember who
2 they were; what kind of soldiers they were?

3 A. Those who were brought in wore Vietnamese clothes. We <> took
4 their photos half -- the upper half of their body just like
5 normal prisoners. <We were told that they were normal prisoners.>

6 Q. Were there ever instances that people who were not really
7 Vietnamese soldiers were forced to wear a Vietnamese uniform or
8 did that never happen?

9 A. I did not know.

10 [13.54.08]

11 Q. Let me skip some other subjects as well and let me ask you
12 some final questions.

13 This morning you identified the house where you, Song and Nit
14 were living and where you were using the darkroom to develop the
15 negatives. You said that that house was close to Duch's house
16 about 50 or 70 metres northwest of Street 340, Street 348 excuse
17 me.

18 Do you recall also a house, which is now known as the Beehive
19 Radio Station close by Street 360 where prisoners who had arrived
20 were assembled? Do you know any? Do you remember such a building?

21 A. In August, I went there but I cannot recognize it. I only
22 remember it was close to the sewage canal but now the landscape
23 changed dramatically.

24 Q. August, you mean August this year, last month?

25 THE KHMER INTERPRETER:

1 The interpreter cannot hear.

2 MR. NOEM OEM:

3 A. When I went there, the landscape changed completely. There
4 were so many houses now.

5 [13.56.08]

6 MR. KOPPE:

7 Q. Indeed, but my question was when you when you went to the
8 Beehive Radio Station in Street 360, was that in August of this
9 year, so last month?

10 MR. NOEM OEM:

11 A. I went there with historians. Yes, it was in 2016. He asked me
12 to go with him to tell him about the location.

13 Q. That's very interesting, Mr. Witness.

14 Did you in August also visit that house that you recognized this
15 morning, Street 348, the house where you, Song and Nit were
16 staying? Was that still in the same condition?

17 A. It changed.

18 [13.57.25]

19 MR. KOPPE:

20 I see, with great regret, Mr. President, that my half-hour is
21 finished so I will leave it at that. Thank you.

22 Thank you, Mr. Witness.

23 MR. PRESIDENT:

24 Thank you, Counsel.

25 Next, before the Chamber gives the floor to the Co-Prosecutor to

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1 ask the witness, the Chamber would like to get observations and
2 submissions from parties regarding the witness 2-TCW-1065 that
3 <provided> the <answers> in document E319/43.3.9-11.

4 On 13 September 2016, the Chamber informed parties by email about
5 its consideration of the calling of additional witness,
6 2-TCW-1065, related to the armed conflict and we would like to
7 invite parties to give observations and submissions on this
8 issue.

9 Now, <the Chamber> gives the floor to the Deputy Co-Prosecutor.

10 [13.58.55]

11 MR. LYSAK:

12 Yes, thank you, Mr. President.

13 We took a look at the WRIs of that proposed witness and we -- in
14 our view it seems to be a significant witness who held position
15 on which he can speak to a number of issues, not only the armed
16 conflict but also the purges in the East Zone and what exactly
17 took place in that region. So our view was that this was a good
18 witness to select and that he should be called to appear.

19 MR. PRESIDENT:

20 Thank you.

21 And the floor is given to the Lead Co-Lawyer for civil parties.

22 [13.59.51]

23 MS. GUIRAUD:

24 Thank you, Mr. President. We will rely on the Court's discretion.

25 MR. PRESIDENT:

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1 The floor is given to the defence counsel for Nuon Chea.

2 MR. KOPPE:

3 With your leave, Mr. President, I believe the Khieu Samphan team
4 has quite strong feelings about this so with your leave, they
5 would go first and then afterwards we will go.

6 MR. PRESIDENT:

7 Defence counsel for Khieu Samphan, you may have the floor.

8 [14.00.29]

9 MS. GUISSSE:

10 Thank you, Mr. President, for having given me the floor.

11 I must say that we are coming to a phase where since we are
12 coming to a point of making comments on talking about bringing
13 this witness 2-TCW-1065 proprio motu of the Chamber, we are
14 getting to a point where we are quite ill at ease from the
15 perspective of the Khieu Samphan defence, and I will explain why.
16 And when I say we are very ill at ease, it's because I am trying
17 to find the right words at this stage of the discussion.

18 In particular, about this witness, there was some background. On
19 22 March 2016, which is roughly six months ago, three WRIs were
20 <disclosed> by the Prosecution in the context of obligations of
21 the so-called -- or, "defence information". And this follows on
22 the decision <you handed down on this matter,> during which there
23 was a limitation on the communications.

24 [14.01.52]

25 <No later than 04 August,> we had <this debate> on the status

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1 concerning <these elements that were disclosed> and since we, as
2 the defence of Khieu Samphan, said that we felt we should be able
3 to respond -- or at least to know if the <disclosures> met the
4 criteria that had been set by the Chamber on what was meant to be
5 communicated as being related "to the defence" -- <and the
6 Chamber responded via Judge Lavergne that there was no
7 prejudice>, as these documents were in the material in the shared
8 drives and as they were not put into the <case> file. So at the
9 time, I sought the name <of the witness,> which I had later
10 found, and the Chamber, also proprio moto, also in the
11 communications that <were disclosed regarding elements from case
12 files 003 and 004> by the Prosecution, they decided to call Muy
13 Vanny. So now we are in the same situation. There are six months
14 between the "exculpatory evidence" which was disclosed by the
15 Prosecution, <but neither the Prosecution, which seems to have
16 changed its tune today, nor the Defence attorneys believed that
17 these elements were -->

18 JUDGE FENZ:

19 Please slow down a bit.

20 MS. GUISSÉ:

21 Okay.

22 JUDGE FENZ:

23 I think the English translation has a bit of a problem in
24 catching up.

25 [14.03.24]

1 MS. GUISSÉ:

2 I'll try to go a bit more slowly.

3 So in the way, the same way as for Muy Vanny, we have a witness
4 who was identified <normally> for the Defence, and for this
5 reason the WRIs were identified, but they <didn't even find
6 useful to make a request> under 87.4, <neither for this witness's
7 statements to be entered into evidence, nor to call him as a
8 witness.> Now, I note that there has been a change from the
9 Prosecution's side but we -- in fact, no defence team thought
10 that it was useful <to call this witness. Nonetheless the Chamber
11 decides to call upon him, hence it acts.>

12 So now we are coming to a very specific stage of the procedure.

13 <Via a> decision on 30 June 2016 or<, in any case,> a list <from>
14 30 June 2016 -- the Chamber, which also had had these <three>
15 WRIs since March 2016, the Chamber did not find it appropriate to
16 put this witness on the list of people that it expected to bring
17 in under the armed conflict segment. So it was only on the 13th
18 of September, two days ago, that we received an email <informing
19 us> that you planned proprio motu to bring in this witness on the
20 basis of document E319/43.3.9-11.

21 [14.05.13]

22 <The Chamber had reminded during> the Management Meeting that
23 this <document> was not something that was in the case file. So
24 the Chamber went to find <elements> that were outside of the case
25 file in two <investigations>, 003 and 004, that none of the

1 parties had asked for. And <today,> on the 15th of September
2 2016, we are just a few weeks shy of the end of this trial. So
3 the first observation since we have been asked for our responses
4 to this decision that the Chamber plans to take if the decision
5 has not already been taken -- so the first observation from the
6 Khieu Samphan team is to say that we have a true problem <with
7 legal uncertainty> in this trial.

8 <That is, as of 15 September, 2016> when there was an
9 <investigation> that had been underway for almost three years,
10 when we had a Closing Order <since 2010>; in 2016, <they announce
11 that we will be hearing a witness whom no one requested.>

12 [14.06.23]

13 So let's be clear. I understand very well that the rules of this
14 Chamber allow new elements to be introduced if they are
15 considered useful and fundamental. And we can -- indeed, and this
16 is the principle of 87.4 etc., introduce new elements. But let's
17 not forget, nevertheless, that we are in a jurisdiction where
18 there has been an <investigation,> and let's not forget that this
19 new element is coming via disclosure which was not meant to be
20 part of a file because that's what was said at the Court
21 Management Meeting and let's also not forget that it's currently
22 15 September 2016.

23 So the Chamber, I guess, can introduce new elements but the way
24 in which these new elements have been coming systematically in
25 the context of our trial poses a problem.

1 We can note at the outcome of this the small percentage of the
2 witnesses and documents which were in the case file of 002/02 and
3 those which came from other investigations and it's actually
4 quite shocking.

5 [14.07.34]

6 So, yes, I can see that we can have new elements but here I need
7 to look on my computer<, because I did not have time to print
8 it.> But just looking back a little bit, in your decision where
9 you said as 1 September, the last 87.4, that the Prosecution
10 should be able to make -- in the context of the trial you say and
11 this is your decision E319/47/3, and it's paragraph 23, that I
12 will need to quote in English because I don't have a French
13 translation.

14 This is what you say. You are the ones who say it: "In any case,
15 as the Chamber approaches the close of evidence in Case 002/02,
16 there must come a point when the parties can rely upon the
17 evidentiary record that has been established throughout the
18 investigation and trials in this case. The value that additional
19 evidence may have in asserting the truth must be weighed against
20 the uncertainty created by allowing the admission of large
21 amounts of new evidence near the close of the proceedings when
22 other parties may not have sufficient opportunity to assess and
23 respond to this information." End quote. That is what you say.

24 [14.09.04]

25 Today, what I am seeing is that what you said <in> June <2016>

1 "We really need to carefully monitor the evidence that we're
2 bringing", <and when we read this decision, we thought: "What we
3 have been speaking out against <since the beginning of> these
4 admissions into evidence <en masse,> of documents <that are not>
5 from the investigation of Case 002/02, which come from external
6 <investigations>, <which do not fall under the scope of this
7 trial", we thought,>
8 "Finally, the Chamber has understood the problem that we are
9 experiencing". But now, I am understanding that not only has the
10 Chamber not understood this, but they are in fact contributing to
11 <this legal uncertainty even further>. Because just a few weeks
12 before the end of the trial, they <once again> asked us to hear a
13 person that no one has asked for when -- since March 2016,
14 because it's the Chamber who made the WRIs of this, <the Chamber
15 was aware of this.>
16 The Co-Prosecutors who made this disclosure, they knew about it
17 and didn't want to make an 87.4 request.
18 [14.10.10]
19 The Defence<, to whom these elements were disclosed as
20 exculpatory evidence, not only did not find exculpatory evidence,
21 but also did not ask for this witness to appear, nor for his
22 statements to be admitted into evidence.>
23 So this is the context that I am speaking on today and this is
24 why I say if you are asking me for my observations, well, we as
25 the defence of Khieu Samphan at this stage, we are not in favour

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1 of calling a witness when there are other witnesses who can talk
2 about armed conflict from Case 002/02 when <the Defence has
3 requested, for example,> TCE-87, I believe, recently, and once
4 again we had to re-request <his appearance, and when a priori
5 there is no request -->

6 But the elements in Case 002/02 <for which the parties are
7 requesting a witness appearance,> have not yet been decided on<,
8 but we will look for someone who comes from a trial totally
9 outside the scope, and whom none of the parties has asked for
10 before.>

11 So I think that we can say we are very uncomfortable in the way
12 this is being conducted vis-à-vis the preparation of the
13 Defence<, and also compared to what this means - but> <to what
14 evidence do we need to respond, and to what charges exactly?>
15 <Based on> the Closing Order, which we've had since 2010<, once
16 again, which way is the wind blowing?>

17 [14.11.43]

18 So we are having a challenge here from the side of Khieu
19 Samphan's defence. So, yes, we are in the situation and I can't
20 say that we have any illusions as to what <you will decide>. If
21 you're asking for observations it's <generally> because the
22 decision is already practically made. So if that's the fact, if
23 that's the case, then we can only say that there is a real
24 problem of legal <uncertainty, which we believe to be an
25 extremely tardy introduction of elements outside the scope of

1 Case 002/02.>

2 So we would like to ask if the Chamber needs to call this
3 witness, which we would consider an imposed decision, if that's
4 the case, we would like to have the time to properly prepare for
5 this witness.

6 And <when I say time,> since I am in a public hearing, I <am
7 obliged> to note that it's important to recall the conditions we
8 work under each and every day, the conditions we need to adapt
9 ourselves to each and every day, how we need to reorganize our
10 work, how the schedule is never <followed> because we have given
11 this type of work to <this or> that person, with consultants
12 <who> are limited in numbers, and so when <you introduce> new
13 pieces of evidence, <that means new preparations, that means
14 there is something that was not organized, and now it is
15 disorganized. And that means that> the time which should have
16 enabled us to work on the final conclusions, for example, means
17 that we must again <use that time instead to> readapt each day to
18 new evidence. This is not normal. It's even less normal in the
19 case of a trial where there has been an investigation and it's
20 even less normal on the date of 15 September 2016.

21 [14.13.19]

22 So if you plan on calling this witness -- and we believe that the
23 decision has already been made but we'll see -- we would ask for
24 time, sufficient time to prepare, and also I would like to refer
25 to a request that we submitted saying we want the audios that

1 correspond to this WRI because that's also a way to monitor the
2 credibility and reliability of the witness.

3 And also, since we're seeing a constant refreshing of the
4 evidence in this trial, we'd like to know <for once and for
5 all,> is this the last witness that will be introduced by
6 surprise at the last minute <on to the list of witnesses> that
7 we'll have in Case 002/02 or not?

8 [14.14.08]

9 And so, <to conclude,> I really want to remind you of this
10 because it's something that we have been <complaining about>
11 since the beginning of these mass introductions of evidence
12 coming from Cases 003 and 004. We're preparing the trial at the
13 same time that we're actually conducting the trial. So the
14 preparation of the investigation of 003 and 004<, which is the
15 basis for the preparation for this trial,> is ongoing at the same
16 time that we're conducting Case 002/02, but we are not party to
17 the investigation.

18 I have a lot to say on this subject but since I am limited in
19 time I would just like to say that if the Chamber intends to
20 bring a new witness, once again, who was known at least to the
21 other parties because the Co-Prosecutor <has known> of it since
22 2012, but if the Chamber expects and intends to bring this
23 witness, we need to have time to prepare. We need to have the
24 audio versions that go with it and the Chamber needs to take into
25 account this massive introduction of new evidence because we need

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1 to be able to discuss the conditions under which we will be
2 writing our final conclusions.

3 So this is both very important and very symbolic because -- these
4 last latest decisions by the Chamber - the massive introduction
5 of witnesses from the investigation of Cases 003 and 004 make us
6 very uncomfortable from a legal perspective.

7 Thank you.

8 [14.15.36]

9 MR. PRESIDENT:

10 Counsel for Nuon Chea, you have the floor.

11 MR. KOPPE:

12 Yes, thank you, Mr. President.

13 I believe it might be useful to give a bit of context in respect
14 of who this witness was or is whom we are talking about.

15 It is apparently a distant, rather distant family member of East
16 Zone leader So Phim and apparently a medic at the hospital
17 belonging to East Zone, Division 4. Division 4 was an important
18 military division of the East Zone and was run by a person that
19 everyone knows in this courtroom, Heng Samrin.

20 [14.16.36]

21 As the Chamber is aware, we have a different position as to
22 calling witnesses from Cases 003 or 004. We are frequently asked
23 ourselves for witnesses. So there is no problem in this
24 particular person coming.

25 Is he significant as the Prosecution is saying? We don't believe

1 so. We have read his WRI and he is not really, it seems to be, in
2 any position to give answers to some very crucial developments
3 and events in the East Zone in May '78 and before.

4 He is apparently, in the view of the Chamber, someone who is
5 going to be testifying about the armed conflict. I'm not quite
6 sure whether he could also testify about the topic of purges in
7 the East Zone. That I am not sure about, but I suspect he can.

8 But the bigger problem of course is that he is, to put it
9 colloquially, completely small fries compared to the people that
10 are really important and who should come to testify in this
11 courtroom.

12 [14.18.26]

13 If it's all right with you, Mr. President, let me refer the
14 Chamber to one or two very interesting paragraphs of a minority
15 opinion of one of -- who we believe one of the most important and
16 respectable judges in the field of international criminal law.

17 The Belgian judge, Van den Wyngaert, said in her minority opinion
18 in the Katanga case a few things about the problem of missing
19 evidence and missing evidence in this case, as we all know, is
20 something of crucial importance. She says in paragraph 148 of her
21 minority opinion, and I quote:

22 "The complete absence of evidence from those who were really at
23 the centre of things at the time inevitably creates the
24 impression that essential information is missing from the record.
25 Conclusions reached on the basis of such incomplete evidence are

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1 inherently fragile and uncertain and cannot suffice for the
2 standard of proof beyond reasonable doubt."

3 [14.19.51]

4 On so many occasions, we have requested this Chamber to summons
5 the most important witnesses in this case and the most important
6 witnesses in relation to the events in the East Zone, in relation
7 to the armed conflict. We have asked many, many times to this
8 Chamber to call Heng Samrin, to call Prime Minister Hun Sen, to
9 call Ouk Bunchhoeun, to call Pol Saroeun, to call Pen Sovan. They
10 are the ones who are really important when it comes to giving
11 evidence about the events that we are speaking about today,
12 yesterday and for the past nine years.

13 So now asking our submissions on this nephew of So Phim, who
14 might say something, I'm happy if he comes. If he doesn't come,
15 it's fine too.

16 What really is important, Mr. President, is that the witnesses
17 that I just mentioned are coming to this courtroom and give
18 evidence.

19 (Short pause)

20 [14.21.17]

21 MR. PRESIDENT:

22 I would like to hand the floor to Judge Lavergne.

23 JUDGE LAVERGNE:

24 Yes, Counsel Guisse, this is a question of interest to you. We
25 have heard your objections but we also have heard that, if

1 necessary, you would need more time. Could you quantify the time
2 that you would need for the preparation for this possible
3 witness?

4 MS. GUISSÉ:

5 It would depend on <when> we would receive the audiocassettes
6 related to this <WRI>, Judge Lavergne, because <as I told you, we
7 have - it is the - I don't have the name any more - the number>
8 of the request that we submitted recently <in front of me,> but
9 <we recently learned that there are audiocassettes that go with
10 all of these statements. So after that, once we know the length
11 of these audio recordings, we will be able to evaluate. For now,
12 I cannot say how much time we would need.>

13 MR. PRESIDENT:

14 Co-Prosecutor, you have the floor.

15 [14.22.26]

16 MR. LYSAK:

17 Thank you, Mr. President. I was brief because I am rather
18 surprised at what I have heard from across the aisle here. So let
19 me respond to some of the incredible things we've just heard.
20 First, that this person is not significant. You just heard a
21 complete misstatement of this person's positions. He was not a
22 medic in a hospital. He was the chairman of the regiment hospital
23 and on the 25th of May 1978, when all the other leading cadres in
24 this zone were purged, he was promoted to regiment commander.
25 So I cannot, for the life of me, understand someone saying this

1 was not a significant person. His interviews speak for himself,
2 which is, I assume, what caught the eye of the Trial Chamber.
3 The complaint about these interviews being disclosed, they were
4 disclosed because they relate to and talk about various people in
5 the East Zone who the Defence have said is a key part of what
6 they are interested in this case. That's why they were disclosed.
7 I am not surprised that the Nuon Chea defence would agree to this
8 person being called. They are using it as an opportunity to bring
9 up another issue, which I don't want to be drawn into at any
10 length now because it's not the issue Your Honours are deciding.

11 [14.24.13]

12 And, most importantly, the notion that this Court -- of the Khieu
13 Samphan team complaining, chiding this Chamber because it has the
14 nerve to suggest and want to hear a witness is remarkable to me.
15 This is an investigative Trial Chamber. This is a search for the
16 truth. If Your Honours think this witness will help you in
17 ascertaining the truth, the witness should be called.

18 These vague, procedural objections we constantly hear from the
19 Khieu Samphan team are trivial. There can certainly be enough
20 time for people to prepare. We are talking about one witness here
21 with a few, not that long interviews.

22 So certainly, this is not a scenario in which you are calling
23 someone to appear tomorrow. That would be prejudice. I am sure
24 you are going to give the parties ample time to prepare should
25 you determine to hear from this person.

1 [14.25.28]

2 So Your Honours have a duty here not to box yourself into an
3 investigation that was conducted quite a few years ago but to
4 take advantage where new, significant witnesses have come up. And
5 if you feel that this person will help you ascertain the truth
6 and it looks to us like it is someone that can do that, the
7 witness should be called.

8 MR. PRESIDENT:

9 Thank you, Co-Prosecutor.

10 And the Chamber would like to thank all parties for their
11 observations.

12 And I noticed that the defence counsel for Khieu Samphan is on
13 her feet. Please be brief.

14 [14.26.15]

15 MS. GUISSSE:

16 Yes, thank you, Mr. President.

17 Just for two comments to respond to the Prosecution. First, if
18 they felt that this witness was so important they could have made
19 an 87.4 request and asked for him to appear. They haven't done it
20 so we must believe that for the Prosecution it wasn't so
21 important.

22 And also what we've heard today and what I have been saying for a
23 while this is absolutely not new, but <what is new is the fact
24 that> the date today is 15 September 2016.

25 MR. PRESIDENT:

1 Thank you, Counsel.

2 And the Chamber thanks the parties for your observations. The
3 Chamber will use your observations as a basis for our decision.
4 I would like now to hand the floor to the Co-Prosecutor to
5 question the witness. And the combined time for the prosecutors
6 and the Lead Co-Lawyers is two sessions.

7 [14.27.19]

8 QUESTIONING BY MR. LYSAK:

9 Thank you, Mr. President.

10 Q. Good afternoon, Mr. Witness.

11 I want to start just with some quick follow-up on your background
12 before being assigned to S-21. You testified that you were
13 initially assigned to be a photographer while you were in
14 Division 703 and what I don't understand is what was the purpose
15 of people being photographers in a military division like 703?
16 What is it that you were assigned to photograph while you were in
17 Division 703?

18 MR. NOEM OEM:

19 A. Allow me to be a bit in detail regarding this point.

20 Initially, I was disabled because I was wounded and I was sent to
21 hospital. Then I disliked the way I was treated, <I was angry
22 with the hospital because> we were discriminated based on the
23 unit that we were in; for example, the 50-men unit, <the 100-man
24 unit were> given <better> food <than youths>.

25 And after I could walk, I went to the common dining hall. Some

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1 wounded people say they asked for salt because the soup was a bit
2 plain but it was refused. And I became angry that we were all
3 fighting at the front battlefield. How come we were so
4 discriminated and while the other two tables were provided with
5 good food?

6 [14.29.41]

7 So my feelings were known to others and about an hour later,
8 Moeun alias <Ta> Rith came and he sent his messenger to fetch me
9 to see him at his house. And he warned me that I should be
10 careful. Otherwise, I would be injected with some liquid and I
11 would die.

12 And in the afternoon when a medic came to give me an injection I
13 refused to take it and then I told the medic that next day I
14 would discharge myself. And that was the day that I left the
15 hospital. It was incidentally the day that Phnom Penh fell.

16 And I met him at the provincial town hall of Kandal. I was called
17 to meet him and he asked me to seize some vehicles and motorbikes
18 as war spoils. <We were afraid that Lon Nol's soldiers would
19 shoot or throw grenade at us.>

20 And after <we completed our task>, he took me along to Ta Nat's
21 location and Ta Nat assigned me to be a photographer at Division
22 703 from that day onward.

23 [14.31.16]

24 Q. I understand that it was because you were injured that you
25 were -- ended up in this position. What I don't understand is why

1 -- why did Division 703 need photographers? What is it that you
2 were to photograph when you were in Division 703?

3 A. I did not know the reason behind that. I saw many <cameras>
4 there and they told me that I need to use those cameras to take
5 photos <before the soldiers went to the battlefield> to keep
6 <them> archived.

7 Q. Did you ever take any photographs before you were assigned to
8 S-21?

9 A. At that time, I did not yet possess all the photography
10 skills. Initially they recruited six of us and later on three of
11 them among us were sent to study in China while the other three,
12 including me, remained. <We did not know foreign language.> We
13 <found> people in their locality to help us <to translate the
14 camera manuals on> how to operate camera <into Khmer; for
15 example, documents on how to mix ink, develop negative. All
16 documents were translated into Khmer and then we studied on the
17 job. There were plenty of photo papers and films at that time. We
18 did not care how many of them were damaged during our practices
19 as long as we could learn fast.>

20 [14.33.07]

21 Q. Well, let me ask you something about your training to become a
22 photographer. You say in your -- in your OCIJ interview, E3/7639;
23 Khmer, ERN 00162708; English, 00162732; French, 00338074; and
24 this is what you told OCIJ -- quote: "I never went to study in
25 China. I studied on the job from colleagues." End of quote.

1 Who were the colleagues who taught you to be a photographer?

2 A. At that time, taking photos was an easy job but the difficult
3 task was developing the negatives. So, at that time, we sought
4 help from the photographers of the older -- of the old regime who
5 were evicted from Phnom Penh to the rural areas. So we asked help
6 from them <to translate the manuals into Khmer so that we could
7 study and practise at the same time>.

8 Q. And how did you find those people?

9 A. We met them through Ta Nat. Ta Nat was the commander of the
10 division and we sought help through him to find people who could
11 translate <the camera manuals in> the foreign language on how to
12 use the camera.

13 [14.35.17]

14 Q. And is that how you learned to develop from reading the
15 manuals that came along with the cameras in the foreign language
16 or by having those translated for you? Was that the source of
17 your information?

18 A. At the time <> I was learning <and> I was also practising <at
19 the same time>. They translated <the manuals> for me and I
20 started to practice it and we achieved a good result. And I also
21 learned how to develop the negatives <and photos> based on my
22 real practice.

23 [14.36.20]

24 MR. LYSAK:

25 Mr. President, I am about to turn to a new subject if you wish to

1 break. Right now it's a convenient spot.

2 MR. PRESIDENT:

3 Thank you, Deputy Co-Prosecutor. The Chamber will take a
4 20-minute break from now.

5 The Court is now in recess.

6 (Court recesses from 1436H to 1455H)

7 MR. PRESIDENT:

8 Please be seated.

9 And Co-Prosecutor, please resume your questioning.

10 BY MR. LYSAK:

11 Thank you, Mr. President.

12 Q. I wanted to turn now, Mr. Witness, to just describing the
13 process of what took place on the occasions that you were
14 assigned to take photographs of prisoners. Can you tell us how
15 you would be informed that prisoners had arrived at S-21 that you
16 were expected to photograph?

17 MR. NOEM OEM:

18 A. When prisoners arrived at S-21, Suos Thy would make a landline
19 phone call to me.

20 [14.57.00]

21 Q. And you've talked about where you would go to take
22 photographs. Let me just clarify. Was there one location only at
23 which you took photographs during the entire time you were at
24 S-21 or were there different places during the period of S-21
25 where prisoners would be photographed?

1 A. At S-21, the location where Thy registered the incoming and
2 outgoing prisoners. However, after Thy took the cameras and the
3 films and the papers to photo those important prisoners, then we
4 were not authorized to enter that particular location. It was
5 only for Party members who had the rights to go there.

6 Q. On the occasions where you yourself went, how long would it
7 usually take you to photograph the prisoners?

8 A. Depending on the number, for small numbers it took us several
9 minutes only but for a larger number then it took us more than an
10 hour.

11 [14.59.00]

12 Q. And when you were finished photographing the prisoners, did
13 you see where they were taken?

14 A. They went to the detention buildings at S-21.

15 Q. And after you were finished photographing them, where would
16 you go? What would you do next?

17 A. After I finished <photographing>, I returned to my location
18 and once all the films in a roll were taken, then I developed
19 those films. However, if it was not used up, then I kept it until
20 it's used up.

21 Q. And you've talked about that it was -- after the photographs
22 were developed they were sent to Thy, to Suos Thy. Did you
23 personally deliver them to Suos Thy or did someone else deliver
24 the photographs to him?

25 A. I myself did it.

1 [15.00.45]

2 Q. And what was done with the negatives? Were the negatives given
3 to Suos Thy also or did you keep the negatives?

4 A. The negatives were stored in my room and only the photos were
5 given to him.

6 Q. Can you describe for us how did you store the negatives? Was
7 there any sort of filing system by the date on which you took the
8 photographs or how were the negatives stored in your room?

9 A. We stored those negatives in sequential order and they were
10 stored in an air-con room.

11 Q. I wanted to ask you about something that defence counsel
12 covered with you that I am not sure I understand. You talked
13 about how there were some times where you waited four to five
14 days until there were enough prisoners before you would come to
15 photograph them. Where is it that the prisoners would wait during
16 this four to five-day period? What was done with the prisoners
17 during these four to five days?

18 [15.02.45]

19 A. We did not keep the prisoners. In fact, the films in a roll
20 was not fully used. For example, a roll of film would have 36
21 slots and usually we would take all the shots before we developed
22 the film. We did not want to cut up the middle part of the film
23 roll in case that it would damage the rest of the film. For that
24 reason, we kept until we used all the slots within the film
25 before we developed it.

1 Q. I understand that. Perhaps I didn't understand your testimony.
2 Are you saying you waited four to five days before developing the
3 photos or you waited four to five days before you went over to
4 photograph the prisoners?

5 A. Let's say I took three photos. It meant that there would be
6 still 33 remaining shots within that roll and I would not develop
7 that film yet. I had to wait until I could take all the shots and
8 then I would take the film and develop it. I did not want to cut
9 part of the shots that I took because that might damage the
10 remaining parts of the roll.

11 [15.04.33]

12 Q. I understand. Let me just make sure I understand. You would
13 take perhaps three photos one day, 10 photos another day, five
14 photos the day after that and once you had taken all 36 photos
15 then you would develop the roll. Was that the procedure?

16 A. Yes, until I took all the photos within a roll. Then I
17 developed the film.

18 Q. Nuon Chea's counsel showed you and asked you about two of the
19 most common formats that we see in the S-21 prisoner photographs
20 and you made mention of a period in which there were no numbers.
21 You also talked about taking photos of prisoners standing against
22 the wall.

23 I wanted to show you some photographs to see if this was what you
24 were talking about and to see if you recognize the location.

25 Mr. President, with your leave, I would like -- I have a group of

1 photographs to provide to the witness. While they are being
2 provided, I will read them into the record.

3 [15.06.15]

4 MR. PRESIDENT:

5 Court officer, please deliver the photos to the witness.

6 MR. LYSAK:

7 And for the record, the photographs that are being provided, the
8 other source in which there are over 5,000 admitted photographs
9 they are all under E3/8639 point, and then there is -- the
10 photographs are numbered from one up above 5,100, so each of
11 these photographs that I will be using today are in evidence as
12 E3/8639 point something.

13 So the photographs that have just been handed to the witness are
14 E3/8639.4427, .5089, .4926, .4724 and .5184.

15 And with your leave, I would like to show some of the examples of
16 these photographs on the screen, Mr. President.

17 [15.07.45]

18 MR. PRESIDENT:

19 AV Unit personnel, please project the photos as requested.

20 BY MR. LYSAK:

21 Q. So in the first three or four photographs in what I handed to
22 you are prisoners who appear to be standing outside against a
23 wall with the curb on the ground. The one on the screen right
24 now, which is 4926, you can actually see a building with some
25 shutters.

1 Do you recognize this location, Mr. Witness?

2 MR. NOEM OEM:

3 A. It is at the location where Thy registered the incoming and
4 outgoing prisoners, <the building at the front.>

5 [15.08.42]

6 JUDGE FENZ:

7 For the record, it is 4931. I think I heard 3926.

8 MR. KOPPE:

9 No, no.

10 JUDGE FENZ:

11 The one that was displayed?

12 MR. KOPPE:

13 No, that's the Yale (phonetic) number. The number 26 is on the
14 ERN.

15 JUDGE FENZ:

16 Okay. Okay.

17 [15.09.03]

18 BY MR. LYSAK:

19 Yes, the number I am going to read is the last part of the E3
20 number.

21 Q. Thank you, Mr. Witness. And the last two photographs if you
22 look at them in the collection I provided, and if we could show
23 one of them or both of them on the screen, they are 4724 and
24 5184.

25 These photographs appear to be taken inside at a location that

1 has a checkered floor.

2 Do you see the photographs?

3 Can we show them on the screen of the checkered floor?

4 Do you recognize that location?

5 [15.09.54]

6 MR. NOEM OEM:

7 A. <This is the photo of the> prisoner<, who> was brought in at
8 night time and I was instructed to take a photo of the women's
9 group in that common room. And I refer here to the building
10 situated to the north.

11 Q. When you say "the building to the north" can you tell us a
12 little bit more? Is this inside the compound at the -- in the
13 building where Suos Thy worked or was this outside the compound?

14 A. It is not the building where Suos Thy worked but it was a
15 building where prisoners were retained. However, it was a large
16 room where women were detained there along with their children.

17 Q. And you mentioned earlier that it was during the early period
18 of S-21 where photographs in this manner were taken before you
19 began using numbers. Do you remember approximately how many
20 months it was that you took photographs in the manner shown here
21 before you began using numbering?

22 A. At that time, there was no photographer, that is, before we
23 arrived and when we started, we did not use the number as well
24 and only later, at a later part, then we used a number.

25 [15.12.16]

1 Q. Okay, thank you.

2 Another group of photographs I'd like to ask you about, defence
3 counsel asked you about this practice of taking photos of the
4 prisoner from both the front and the side that we saw in 1978.
5 I want to provide a couple of the examples of side photos, Mr.
6 President, with your leave. I have another group and I'll
7 identify the photographs while they are being provided to the
8 witness.

9 MR. PRESIDENT:

10 Court officer, please deliver those photos to the witness.

11 [15.13.08]

12 BY MR. LYSAK:

13 Q. So the next group of photographs that are being provided, for
14 the record, are E3/8639.193, .196, .4149, and .4192, and then
15 there is also a photograph at the end which is -- has a different
16 E3 number to it, E3/8063.74. And if we can display one of these
17 photos on the screen?

18 MR. PRESIDENT:

19 AV Unit personnel, please show the relevant photo on-screen.

20 BY MR. LYSAK:

21 Q. So these photographs taken from the side. The one we're
22 looking at now is the .193 photo, the E3 number. You can see that
23 the prisoners are seated in a chair of some sorts and that there
24 is some sort of instrument that is behind their head.
25 Can you tell the Court what it is that the prisoners were sitting

1 in and what the -- this instrument is that we see right behind
2 their head, to the left of their head? What was that used for?

3 MR. NOEM OEM:

4 A. Regarding the photos that were taken from the front and to the
5 side <with the instrument behind their head, it was instructed by
6 Ta Duch.> That instrument or prop was given to us and we could
7 use it to steady the head. And sometimes we even took a
8 measurement of the height of the prisoners. <On some occasions we
9 did not take the photos, we only took a measurement of the height
10 of the prisoners.>

11 [15.15.32]

12 Q. When you measured the height of the prisoners, where did you
13 record that and what was done with that information?

14 A. We only did it for a few days then we stopped the practice
15 because it was <hard> for us to do that.

16 Q. And if we could look at the last photograph in this sequence,
17 this is E3/8063.74. It's a montage of photos, but if we could
18 show on the screen and focus on the photograph of the chair.

19 If you look at that photograph, the chair that we see there --
20 this is a photograph taken from the Tuol Sleng museum -- is that
21 the chair that was used when you were photographing prisoners in
22 this manner in 1978?

23 A. We did not take many photos with prisoners who sat on the
24 chairs and photographs were also taken from the side because it
25 consumed a lot of frames when we had to take two photos of each

1 prisoner, that is from the front and from the side, and it also
2 consumed more times and we also had to waste more papers.
3 Sometimes prisoners were ordered to sit <> on the chair and
4 photographs were taken and sometimes they were standing. <That
5 was practisedpracticed in the later period.>

6 [15.17.48]

7 Q. My question -- my question to you, Mr. Witness, if we could
8 focus in on that chair a little more, is that the same chair --
9 and you can see the instrument on the top of it -- is that the
10 same chair that we see these prisoners in in the photographs that
11 I just showed you?

12 A. There was only one.

13 Q. And was that chair kept in the room that you normally
14 photographed prisoners in 1978?

15 A. At Thy's place.

16 Q. Were there occasions, Mr. Witness, when photographs were taken
17 of prisoners inside their prison cells?

18 A. Yes. When prisoners were brought in during the night time,
19 next morning guards would not take them downstairs for
20 photographs session then we had to go there and take photos.

21 [15.19.35]

22 Q. And how often did you have to go and take photographs in the
23 prisoners' cells?

24 A. I went there probably for about two times.

25 Q. During the occasions where you had -- where you assigned to go

1 to the prisoners' cells and photograph them there, can you tell
2 us what you observed in terms of the conditions in which the
3 prisoners lived?

4 A. In the common room, people were not handcuffed or chained,
5 however, for individual cells both legs or ankles were shackled.

6 Q. Let me show you -- Mr. President with your leave -- another
7 group of photographs of what appear to be prisoners in cells.
8 Again, if I may provide this to the witness, I will read the
9 numbers into the record?record.

10 [15.21.17]

11 MR. PRESIDENT:

12 Court officer, please hand the documents to the witness.

13 MR. LYSAK:

14 And for the record, the group of photographs that have just been
15 presented to the witness are E3/8639.3299, .3303, .3795, .3859,
16 and .2585.

17 And if we can put on the screen to start the first one which is
18 8639.3299?

19 MR. PRESIDENT:

20 AV Unit personnel, please show that photo on the screen.

21 [15.22.26]

22 BY MR. LYSAK:

23 Q. When you described or testified to prisoners being
24 photographed on their cells on occasion, is that what we see in
25 the group of photographs I provided to you? Are these examples of

1 photographs that were taken inside the cells at S-21?

2 MR. NOEM OEM:

3 A. Yes, that is correct. At that time, those prisoners were not
4 taken downstairs and they were shackled in their cells. Then I
5 was asked to take their photos so I brought along my camera and
6 the necessary equipment in order to take their photos. <There
7 were many prisoners and they were not taken downstairs at that
8 time.>

9 Q. And were there -- when you were photographing prisoners not in
10 their cells but in the normal room where you took the
11 photographs, were prisoners sometimes in handcuffs or shackles at
12 the time they were photographed in the normal room?

13 A. In this photo, prisoners were shackled in their individual
14 cell<, one prisoner in one cell.>

15 [15.24.29]

16 Q. I meant to proceed to another -- to a different group of
17 photos that in which we can see -- seem to see handcuffs and
18 chains.

19 MR. LYSAK:

20 With your leave again, Mr. President, I have three photographs to
21 provide and I'll identify them on the record.

22 MR. PRESIDENT:

23 Court officer, please take the photos to the witness.

24 MR. LYSAK:

25 And for the record, the photographs are E3/8639.3319, .3321, and

1 .3813, and if we can display those on the screen, please?

2 MR. PRESIDENT:

3 AV Unit personnel, please show the photos on the screen.

4 (Short pause)

5 [15.25.47]

6 BY MR. LYSAK:

7 Q. So let's start with the first photograph which photograph,

8 which is .3319. We can see prisoners here who are handcuffed.

9 Was this a photo that was taken in a cell or was this taken in
10 the normal room where you took prisoner photographs?

11 MR. NOEM OEM:

12 A. This is a photo of prisoners who just arrived, that is, at the
13 location where Thy worked. For the prisoner whose photograph had
14 to be taken had to sit and the one who was standing was waiting for
15 his turn to be taken the photograph.

16 Q. Were there some prisoners once when they were brought into the
17 room, in addition to being in handcuffs who were blindfolded?

18 [15.27.08]

19 A. When they were brought in from the outside, most of them were
20 blindfolded and only before they were taken photograph then the
21 blindfolds were removed. <The guard was asked to remove the
22 blindfolds from the prisoners.>

23 MR. LYSAK:

24 And if we could display on the screen the next photograph which
25 is .3321, with your leave?

1 MR. PRESIDENT:

2 Court officer.

3 MR. LYSAK:

4 It's just a request to display on the screen one of the
5 photographs that's already been provided. Yes. Thank you.

6 [15.28.00]

7 BY MR. LYSAK:

8 Q. Is this an example of what you just described? Is this a
9 photograph in which we see a prisoner who is blind -- who's
10 waiting his turn to be photographed and is blindfolded?

11 MR. NOEM OEM:

12 A. Yes. As I have stated, when they were brought in they were
13 blindfolded from the outside and then from what I could conclude
14 they were blindfolded after they had been arrested, and when they
15 arrived at the photography room, one -- each of them was in turn
16 removed -- the blindfold for each of them was removed in turn to
17 be photographed. <After taking photographs, they were taken
18 upstairs.>

19 Q. And if we could put on the screen the next photograph in the
20 series which is .3813.

21 And if you'd look, Mr. Witness, at the last photograph in the
22 group of three that I handed to you.

23 In .3815 -- photo .3813, we see a prisoner who appears to be on
24 the ground with his hands behind his back connected to some sort
25 of chain or rope.

1 Can we show that on the screen with your leave, Mr. President?

2 [15.29.50]

3 MR. PRESIDENT:

4 Yes, you may proceed.

5 BY MR. LYSAK:

6 Q. Do you remember prisoners being brought into the room with
7 their hands tied behind their backs connected by chains such as
8 what we see in this photograph?

9 MR. NOEM OEM:

10 A. It is likely that the person was not handcuffed and for that
11 reason, he was tied with a rope, and then he was ordered to sit
12 against the wall at where <Thy> worked.

13 Q. So do I understand that you believe what we see in the photo
14 there is a rope by which the prisoner is tied; do I understand
15 correctly?

16 A. Yes, it was perhaps a rope.

17 Q. We talked about your storage of negatives. I had one other
18 question about the negatives.

19 And again, Mr. President, I have a group of photographs I'd like
20 to provide to the witness to ask him about the practice with
21 negatives.

22 [15.31.45]

23 MR. PRESIDENT:

24 Court officer, take the document to the witness.

25 MR. LYSAK:

1 And for the record, the next group of photographs that are being
2 provided are E3/8639.1064, .4, .48, .386, and .703.

3 BY MR. LYSAK:

4 Q. And the reason I provided you these -- this group of
5 photographs where we can see the negatives is we can see in each
6 of these photographs that there is some -- the names of the
7 people have actually been written onto -- appear to have been
8 written onto the negative.

9 In some of them, you can see it in black. In some of the
10 photographs too, you can see a white outline of the name that
11 looks like it may have been written -- engraved somehow.

12 My question to you is: Was there a period when prisoner names
13 were somehow written right onto the negative that you have kept?

14 [15.33.28]

15 MR. NOEM OEM:

16 A. After the photos were taken, I <kept> all the films, the
17 papers and the negatives <in the storeroom>.

18 Q. Yes, and was there any period or occasions where the names of
19 the prisoners were somehow written or marked onto the negative?

20 A. No, they were not written on. We wrote only on the bar of wood
21 where the negative was stored but on the negatives.

22 Q. So you had a bar of wood and what would you write on that bar
23 of wood?

24 A. I wrote the number and the names, but it was not systematic,
25 it changed all the time.

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1 Q. And the handwriting of the names that we see in these
2 photographs is that your handwriting or is that someone else's
3 handwriting?

4 A. Nit and Song could not write well and they asked for help from
5 other people, but for me I could write so I wrote them myself.

6 [15.35.44]

7 Q. I wanted to follow-up -- thank you for clarifying that--

8 MR. KOPPE:

9 Sorry to interrupt. I was hoping that we would actually see that
10 negative on the screen because I've stopped trying to get it from
11 the system. But I would appreciate it if we could see it on the
12 screen.

13 BY MR. LYSAK:

14 Thank you. If we could display on the screen the first example of
15 that which is 8639.1064?

16 Q. So am I correct, do I understand correctly, Mr. Witness, that
17 this is your handwriting here and this is something that would be
18 written onto a piece of wood that was connected to the negative?

19 Is that right?

20 [15.37.09]

21 MR. PRESIDENT:

22 Mr. Witness, please wait until your microphone is activated.

23 MR. NOEM OEM:

24 It's my handwriting, but for the number <below>, it <is the
25 changeable numbers from 0 to 9.>

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1 MR. LYSAK:

2 Yes, just so the record's clear. In the photograph we just looked
3 at, there's a number tag that the prisoner had, but there's also
4 a number that's been added which, I believe, is a number by the
5 -- used by the Tuol Sleng museum.

6 [15.38.06]

7 BY MR. LYSAK:

8 Q. Mr. Witness, you talked about this a little bit with counsel.
9 You said that, particularly in the latter part -- the latter part
10 of the time you were at S-21, your words, you said that you only
11 occasionally took photos and that you usually used Song.
12 When you say you only went occasionally, can you give us some
13 sense of how often you, yourself, would go to take photographs
14 every month?

15 MR. NOEM OEM:

16 A. It was based on circumstances. When prisoners were brought
17 from their localities, sometimes 10 or 20 of them were brought in
18 a time and I was called in to take photos, but when only one or
19 two prisoners were brought in, I assigned either Song or Nit to
20 go and take photos. <In some occasions, a large number of
21 prisoners was brought in. Approximately, I took photos of the
22 prisoners about 10 times a month. The rest was taken by Song.>

23 [15.39.46]

24 Q. Well, let me ask you about something you said in your OCIJ
25 interview, E3/7639; Khmer, 00162714; English, 00162738; French,

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1 00338081. You said, "I assume about 200 to 300 whom I personally
2 photographed". End of quote.

3 And I just want to get some clarification here, Mr. Witness. Are
4 you saying that you, yourself, personally, only took about 200 to
5 300 photos and the rest were taken by other members of your
6 staff, or do I misunderstand what you were saying when you
7 referenced 200 to 300 photos?

8 A. As I said earlier, I took only some of the photos and the rest
9 were taken by my subordinates. I assigned them to take those
10 photos. <I was busy with developing the negatives.> Only when a
11 large number of prisoners were brought in at a time that I was
12 called in <by Ta Duch> to take photos. And on some occasions, the
13 films were all damaged.

14 Q. Well, continuing on the next page of the ERN pages I just
15 provided, you continued to say - quote:

16 "That I mostly used my subordinates to take photos and I
17 developed the film because many photos were damaged when I had my
18 subordinates develop them." End of quote.

19 Was it your normal practice, Mr. Witness, to mostly rely on your
20 subordinates to take the photos and for you to do the developing?

21 A. It's not all the time. It depended on circumstances. Sometime
22 I -- I also assigned them to develop the film but when the film
23 touches each other, it damages the film and when the <ink was not
24 mixed correctly based on its standard,> it became grey and the
25 photo developed would become black.

1 [15.43.17]

2 Q. I do understand that. My question was: Was the normal practice
3 that your subordinates would take the photographs and you would
4 develop them; was that how things proceeded on most days while
5 you were at S-21?

6 A. There were also some occasions when I went to take photos
7 myself, especially when a large number of prisoners were brought
8 in. If only one or two prisoner were brought in, I assigned my
9 subordinates to do the job.

10 Q. And just to follow up on that, when there were occasions where
11 large numbers of prisoners were brought in, would it be just
12 yourself or would your entire team go to photograph these
13 prisoners?

14 A. Most cases two of us went there and we kept one person standby
15 at our place <in order to look after the house.>

16 [15.44.52]

17 Q. And I'd like to follow up on something that you said to
18 defence counsel earlier today. He was -- he asked you whether you
19 ever took photos, pictures of dead prisoners, and you responded:
20 "Yes, on some occasions after prisoners were beaten to death, we
21 were asked to photograph them."

22 On these occasions where prisoners who had been beaten to death
23 were photographed, did you personally take those photos or did
24 one of your staff do that?

25 A. I, myself, went up -- the upstairs of the building <to the

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1 south> to perform it myself.

2 Q. And who was it that informed you that there was a prisoner who
3 was deceased who needed to be photographed; who asked you to do
4 that?

5 A. It was Thy who telephoned <Ta Duch and then Ta Duch called> me
6 to come.

7 Q. And who told you that these prisoners had been beaten to
8 death, was it Thy or did someone else tell you that?

9 A. <It> was reported to Duch and Duch called me to take
10 photograph of the dead prisoner. <Thy asked me to take photos
11 after I arrived there.>

12 [15.46.55]

13 Q. And where did you go to take the photographs of these dead
14 prisoners?

15 A. It was in the building to the south.

16 Q. Then you're talking about the building to the south within the
17 S-21 compound; is that correct?

18 A. Yes. In S-21, there were buildings in the south, in the west
19 and in the north.

20 MR. LYSAK:

21 Mr. President, with your leave, I'd like to provide to the
22 witness a couple of examples that are in evidence of photographs
23 of deceased prisoners, and if I may provide them I'll identify
24 them for the record?

25 MR. PRESIDENT:

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1 Court officer, please take the document to the witness.

2 [15.48.26]

3 MR. LYSAK:

4 For the record, what's been provided to this witness are three
5 documents. The first is a photograph that appears in David
6 Chandler's book "Voices from S-21". This is E3/1684 at ERN
7 00192764. The second is a photograph, E3/8063.49, 8063.49. And
8 the third document provided to the witness is a S-21 list of
9 prisoners who died of disease on 12 October -- dated 12 October
10 1977; this is E3/3181 at Khmer ERN 00088691; English, 00784614;
11 French, 00728981.

12 And with your leave, Mr. President, I'd like to start by putting
13 on the screen the photograph from David Chandler's book, which
14 appears at ERN 00192764.

15 [15.50.10]

16 MR. PRESIDENT:

17 AV Unit officers, project the photos on the screen, please.

18 MR. LYSAK:

19 Yes, thank you.

20 BY MR. LYSAK:

21 Q. This photograph in -- these two photographs in David
22 Chandler's book, we see an entry photo of prisoner Doeur Pheach
23 and a photograph of his executed -- or his dead body I should say
24 -- with a placard with his name and a date.

25 My first question to you, Mr. Witness, was it your unit that took

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1 photographs of prisoners who died of disease inside S-21?

2 MR. NOEM OEM:

3 A. Talking about the photographers for taking photos within the
4 compound of S-21, there were only three members of us but for the
5 one who took photo outside the compound was Sry, who was the
6 Party member. <I was not allowed to take photos of the high
7 ranking Party members.>

8 [15.51.48]

9 Q. And can you tell the first photograph of the deceased
10 prisoner, prisoner; is that a photograph from inside the compound?
11 You recognize the floor and the sign that was put on the
12 prisoner?

13 A. On some occasions <> prisoner died at the interrogation place,
14 while some other occasions, prisoner died upon the arrival.

15 MR. LYSAK:

16 Let me follow up. If we can show on the screen the next
17 photograph, E3/8063.49. With your leave, Mr. President, we can
18 display that on the screen?

19 MR. PRESIDENT:

20 AV Unit, display the photos on the screen.

21 BY MR. LYSAK:

22 Q. So what I want to ask you about is the sign that is put on the
23 dead body before the photograph is taken. Do you remember your
24 unit being asked to use a sign identifying the prisoner and the
25 date when you took photos of dead prisoners in the compound?

1 [15.53.40]

2 MR. NOEM OEM:

3 A. To my knowledge, the person died in the building but his body
4 were carried outside the building and the photos was taken
5 outside the building. <After the photographs were taken, the date
6 was put with the name.>

7 Q. And so was this -- were these photographs of prisoners who had
8 been taken outside the premises, were these taken by your unit or
9 were these taken by someone else?

10 A. My unit was in charge of taking the photo.

11 MR. LYSAK:

12 And for the record, Your Honours, the prisoners shown in these
13 two photos, Doeur Pheach and Man Poeu, their names, they can be
14 found in the S-21 list of prisoners who died of disease on 12
15 October 1977 that I referenced earlier.

16 Doeur Pheach, the first person, alias Nob, is number 1394 on the
17 OCIJ S-21 list in which he's identified as a 49 year-old member
18 of Sector 1 of the Northwest Zone who had entered S-21 on 12
19 September 1977.

20 [15.55.23]

21 The second deceased prisoner, a Man Poeu, is number 5389, 5389 on
22 the OCIJ list in which he's identified as a 33 year-old New
23 Person from Sector 1 of the Northwest Zone.

24 And these two people are number 1 and number 2 on the List of
25 Prisoners who Died from Disease, E3/3181.

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1 Are you okay? Do you need some water, Mr. Witness?

2 (Short pause)

3 [15.56.19]

4 BY MR. LYSAK:

5 Q. Let me turn to my next subject, we have a few minutes left.

6 I wanted to start to ask you some questions about Nhem En and the
7 time it was that he came -- first came to S-21. Counsel asked you
8 about this earlier. In your -- I wanted to follow up.

9 In your OCIJ Statement, E3/7639; at Khmer, ERN 00162711; English,
10 00162734; French, 00338077; you stated the following:

11 "Later on when Ta Nat was arrested, they sent children like
12 Little En to study photography from me." End of quote.

13 And then on the following pages - quote: "When they arrested and
14 brought in Ta Nat, about a month later after that, a friend of
15 mine at the interrogation site told me that Ta Nat had been
16 arrested and brought in. Two months later, they had the children
17 come to study photography from me."

18 Question: "What were the names?"

19 Answer: "I can only recall En."

20 When you referred here to the arrest of Ta Nat, are you referring
21 to the former Chairman of Division 703?

22 MR. NOEM OEM:

23 A. Yes.

24 [15.58.23]

25 Q. The reason I ask you about that, Mr. Witness, because you say

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1 in your interview it was two months after the arrest of Nat that
2 Nhem En came to study photography from you.

3 But the S-21 records -- and I'm referring here to number 14,866,
4 14,866 on the OCIJ S-21 list -- S-21 records establish that Nat
5 was not arrested and didn't enter S-21 until 16 December 1978,
6 which was only two weeks before the end of Democratic Kampuchea
7 regime.

8 Are you possibly confused here, Mr. Witness, about the timing of
9 when it was that Nhem En came to S-21? It doesn't seem that there
10 was -- there's any possibility it could have been two months
11 after the arrest of Ta Nat?

12 A. I cannot recall the date well, but my friend told me that Nat
13 had been arrested and a little while later Nhem En came in to
14 learn photography from me<. I was very surprised> because, before
15 that, I never saw Nhem En's group.

16 I realized myself that when the children group possessed all the
17 photography skills, then we, the instructors, would be
18 eliminated. <Therefore, I told my subordinates not to teach Nhem
19 En all the skills.>

20 [16.00.31]

21 BY MR. LYSAK:

22 And if I may ask one more question before we break, Mr.
23 President?

24 Q. You said that same thing this morning that, if you trained
25 these children fully, you would be killed or eliminated.

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1 Why did you think that you would be killed and eliminated if you
2 trained these children how to take pictures?

3 MR. NOEM OEM:

4 A. The first reason was that Ta Nat was the one who brought me in
5 to work there, and Ta Nat was also the commander of the division
6 where I originated from. And based on my observation when the
7 leader of a network was arrested, then members of the network
8 would be arrested.

9 For example, I was consider as belonging to Ta Nat's network and
10 now Ta Nat was arrested, so I could foresee my fate.

11 [16.01.59]

12 MR. PRESIDENT:

13 Thank you, Deputy Co-Prosecutor.

14 It is now convenient time for the adjournment.

15 The Chamber will resume its hearing tomorrow, Friday, 16
16 September 2016 at 9 a.m.

17 The Chamber will conclude the hearing of this witness and we will
18 also hear the testimony of a civil party, that is, 2-TCCP-283.

19 Parties, please be informed.

20 [16.02.31]

21 Thank you, Mr. Noem Oem, the hearing of your testimony as a
22 witness today has not yet concluded. You are therefore invited to
23 come back tomorrow at 9 a.m.

24 Court officer, in collaboration with WESU, please make necessary
25 transport arrangement to send the witness to where he is staying

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1 and invite him back to the courtroom tomorrow at 9 a.m.

2 Security personnel are instructed to bring Khieu Samphan and Nuon

3 Chea back to the detention facility and have them returned to the

4 courtroom tomorrow morning before 9 a.m.

5 The Court is now adjourned.

6 (Court adjourns at 1603H)

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