



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

ORIGINAL/ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ (Date): 27-May-2016, 10:23

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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

31 March 2016

Trial Day 393

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
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LIV Sovanna
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For the Office of the Co-Prosecutors:
Dale LYSAK
SENG LEANG

For Court Management Section:
UCH Arun

I N D E X

Mr. SUN Vuth (2-TCCP-1016)

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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. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SUN Vuth (2-TCCP-1016)	Khmer

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

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the testimony of the current

6 witness and Ms. Se Kolvuthy please report the attendance of the

7 parties and other individuals to today's proceedings.

8 THE GREFFIER:

9 Mr. President, for today's proceedings, all parties to this case
10 are present. Mr. Nuon Chea is present in the holding cell

11 downstairs. He has waived his right to be present in the

12 courtroom. The waiver has been delivered to the greffier.

13 The Civil Party who is to conclude his testimony today, that is

14 Mr. Sun Vuth, is present in the courtroom and there is no

15 reserved witness today. Thank you.

16 [09.04.45]

17 MR. PRESIDENT:

18 Thank you, Ms. Se Kolvuthy. The Chamber now decides on the

19 request by Nuon Chea. The Chamber has received a waiver from Nuon

20 Chea dated 31st March 2016, which states that due to his health,

21 headache, back pain, he cannot sit or concentrate for long and in

22 order to effectively participate in future hearings, he requests

23 to waive his presence at the 31st March 2016 hearing.

24 Having seen the medical report of Nuon Chea by the duty doctor

25 for the accused at the ECCC, dated 31st March 2016, which states

2

1 that Nuon Chea has back pain and feels dizzy when he sits for
2 long and recommends that the Chamber should grant him his request
3 so that he can follow the proceedings remotely from the holding
4 cell downstairs.

5 Based on the above information and pursuant to Rule 81.5 of the
6 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
7 follow the todays proceedings remotely from the holding cell
8 downstairs via an audio-visual means.

9 The Chamber instructs the AV unit personnel to link the
10 proceedings to the room downstairs so that Nuon Chea can follow.
11 That applies to the whole day.

12 I'd like to give the floor to the defence teams. First to the
13 defence team for Nuon Chea to put questions to the civil party.
14 You may proceed.

15 I notice that Judge Lavergne wants to take the floor. You may
16 proceed, Judge.

17 [09.06.40]

18 QUESTIONING BY JUDGE LAVERGNE:

19 Yes, thank you, Mr. President. Good morning, Civil Party.

20 Q. Mr. Sun Vuth, yesterday evening before the Court adjourned,
21 you were provided with a document, which is a list of about 100
22 names. Apparently names of people who were detained at S-21.

23 Did you have the time to review this list and to read the names
24 on that list?

25 MR. SUN VUTH:

3

1 A. Yes, I have read the list, but I do not recognize any names on
2 the list. I do not know any names on the list.

3 [09.07.47]

4 Q. Fine. This is an issue we will deal with more in detail when
5 we will <> consider<> the facts tied to S-21, but now let me move
6 on to another series of questions.

7 Regarding your statements about forced marriages, if I understood
8 what you told us yesterday well, you said that you were asked to
9 get married but that you <refused,> and therefore you did not get
10 married. So is that what we must understand from your testimony?

11 A. Yes, I made my protest through the upper levels since I was
12 rather young, <I did not want to get married yet> and I was
13 successful with my protest. <I got married later.>

14 Q. Do you remember having been interviewed by the Victims Unit of
15 this Court, because we <> have on the case file a supplementary
16 information form in which it appears that you said you were
17 forced to get married in 1975. Do you remember having said such a
18 thing?

19 And let me add that you were quite specific about this. You <>
20 gave the name of the woman you were forced to marry and then you
21 explained that <afterwards> you <> left for Phnom Penh and that
22 you never saw that woman again.

23 So does this somehow jog your memory? Did you say such a thing
24 and if that is the case why doesn't this match what you are
25 telling us now and what you told us yesterday?

1 [09.10.24]

2 A. The person who interviewed <me> might <have made> that
3 mistake. In fact, the marriage was arranged for me and that in
4 fact I was supposed to marry the female comrade Neav, but as I
5 said I made my protest heard to Angkar and then I didn't actually
6 get married.

7 And I was asked by the interviewer whether I got married with
8 Neav and then I said that the arrangement was made but I made my
9 protest and then I didn't actually marry her.

10 Q. Did you attend the marriages of other people and if that is
11 the case how many people got married and what happened right
12 after the ceremony?

13 [09.11.42]

14 A. Yes. I was there and before the arranged marriage was made,
15 they organised those people from different locations and they met
16 them during the event. <They did not love each other. I also
17 attended the event.>

18 And actually, before they got married, they had to make a
19 commitment that they had to be honest to one another, be faithful
20 to one another, if not, then they would be accused of not
21 following the instructions of Angkar.

22 After the marriage, they would be monitored whether they
23 consummated the marriage or not and then such a report would be
24 made to the upper echelon.

25 Q. And this monitoring, making sure that the marriage was

5

1 consummated, is this something that you saw yourself <with your
2 own eyes> or is this something that you were told about?

3 A. I only heard from those who actually engaged in the monitoring
4 of those married couples and if they loved each other or not
5 after the marriage, they would have to make such a report to --
6 to the upper level.

7 Q. And who were these people who were in charge of making sure
8 that the marriage had been consummated<>? Who <were> these
9 people? Were these people who were in the army? Were these
10 militia men? Who were these people?

11 A. The <married> couples were those combatants in the military
12 unit and those who engaged in the monitoring <of> the marriage
13 were also soldiers, <who were close to their commanders>. In
14 fact, those married couples were asked to live in a row of small
15 huts and <there was a team of two who monitored> the
16 consummation.

17 If they didn't consummate their marriage, then a report would be
18 made through the upper level that they disobeyed the instruction
19 of Angkar.

20 [09.14.49]

21 Q. And if such a thing occurred, that is to say, if newlyweds
22 would not consummate their marriage, do you know if they suffered
23 consequences from that <refusal>?<>

24 A. The upper level would take them for re-education. If the woman
25 didn't love the husband, then the woman would be re-educated that

6

1 she should love the husband based on the instruction of Angkar
2 and that they had to listen and obey the orders of Angkar.

3 Q. And the ceremonies that you attended took place in which year,
4 exactly when?

5 [09.16.01]

6 A. The marriage ceremony was held at the division, that is, in
7 Kaoh Nheaek, and there were seven couples who got married. In
8 fact, there were eight including myself, but since I made my
9 protest then only the seven couples were arranged to get married.
10 Since we were combatants, the marriage ceremony took place at the
11 division.

12 Q. And do you remember the year?

13 A. It was in mid-1976, when the seven couples were arranged to
14 marry.

15 Q. Were there other ceremonies or was that the only one you were
16 aware of? Or were there others?

17 A. That was the only marriage ceremony that I knew of since I
18 myself was arranged to get married during that event.

19 Q. Did -- were all soldiers in Division 920 forced to get married
20 or simply some of them?

21 A. No, not every combatant. Angkar selected those combatants, for
22 example, for male combatants who were 30 years old or over, and
23 as for the female combatants, when they were around 29 or 30
24 years old, then Angkar would organize their marriage for them.
25 And this did not happen to combatants who were 17 or 18 years

1 old.

2 [09.18.45]

3 Q. I believe that yesterday you said that you were born in 1957;
4 is that the case?

5 A. Yes, that is correct.

6 Q. Well, now I am going to move on to another and last topic. You
7 also said, in your civil party application, that you underwent
8 training in Kratie, before you went to Mondolkiri -- on your way
9 to Mondolkiri, and in Kratie you were taught the 12 moral
10 commandments. So do you remember that?

11 A. Yes. I recall that. At that time, we were provided military
12 training as well as the moral issues. That is the 12 moral
13 commandments that combatants should not touch any property or
14 belonging of the civilians, even one chili should not be picked
15 and that we had to discipline ourselves not to engage in any love
16 affairs with other female combatants. That's what I learned
17 during that training.

18 [09.20.38]

19 Q. Were you told what the purpose of these 12 commandments was?
20 What was the aim? Why were soldiers required to follow these 12
21 revolutionary principles?

22 A. We were taught the 12 moral commandments that we should
23 strictly adhere to the disciplines and the orders of our
24 superiors and of Angkar, and that we had to implement
25 instructions or orders fully from Angkar, and that we should not

1 betray Angkar at all. And we were told not to deceive Angkar and
2 that we had to be loyal to Angkar and the Party.

3 Q. I'm going to read out an excerpt of an article that appeared
4 in "Revolutionary Youth".

5 This is issue 10 of October 1978. It's document E3/765. The Khmer
6 ERN is, 00376472 to 376507. And I would like to focus on -- the
7 French ERN, 00540021; and English, 00539989 to 90; and in this
8 article it is <explained> that it's necessary to apply the 12
9 moral principles in order to allow the revolution to succeed and
10 <it is said> that if that is not the case it will be a failure.

11 And the following is said in particular:

12 "And this time -- so if the 12 principles are <not> indeed
13 followed, the revolution should become the servants of the
14 Vietnamese expansionist invaders and -- who are also race
15 exterminators and territory swallows and this would be a
16 terrible situation for sure. This is a great danger for all of us
17 who are revolutionaries, as for the nation, as for the population
18 and as for our revolutionary movement."

19 So, do you remember having heard similar <teachings> regarding
20 this necessity of following the 12 revolutionary principles in
21 order to fight against the Vietnamese invader?

22 [09.24.25]

23 A. It is hard for me to fully understand the 12 moral
24 commandments. What I knew is that I had to follow the orders and
25 instructions of my superiors and that's what I did. And it was

9

1 part of the 12 moral commandments that I did not touch any
2 belonging or property of the civilians. That was my understanding
3 of the 12 moral commandments.

4 Q. Do you remember if some of the points regarding these <moral>
5 commandments regarded the attitude that one must adopt vis-à-vis
6 the enemy?

7 [09.25.37]

8 A. As for the 12 moral commandments, in my understanding is that
9 we must not collude or cooperate with the enemy at whatever cost,
10 but as I said I was not that knowledgeable in the details of
11 these 12 moral commandments.

12 Q. I'm going to read out to you principle number 10 as appears in
13 the article I was referring to, which is at French ERN, 00540026;
14 at English ERN, 00539995.

15 And the principle is the following: "Be absolutely modest and
16 polite toward the people, but have a quick-to-ignite anger toward
17 the enemy". In English it is said, "but have a quick-to-ignite
18 anger toward the enemy".

19 So does this somehow <jog> your memory and if yes what does this
20 mean? What does it mean to have a quick-to-ignite anger toward
21 the enemy?

22 A. It is my understanding that we should not at any cost
23 negotiate with the enemy and we had to consider them as the real
24 enemy and that we had to be firm with the enemy.

25 [09.28.10]

10

1 Q. Do you remember a <moral> commandment regarding sexual
2 relations outside of marriage? Was such a form of behaviour
3 allowed or was it forbidden?

4 A. It was allowed for the married couples. Initially, after they
5 got married, they would be given a place for them to be together
6 for a certain time. For example, they would be allowed to be
7 together at 8 o'clock and that they would be subject to
8 monitoring.

9 Q. Well commandment number 6, as I can read it <in this article>,
10 says the following:

11 "Do not behave in any way that violates females. Generally
12 speaking, do not do anything that <transgresses sexual>
13 morality<, in any case>."

14 So do you remember having heard this and did you ever see the
15 outcome or the results of behaviour that might have violated this
16 commandment?

17 [09.30.05]

18 A. I knew about that, but what could we do, of course as a human
19 being, it was our nature to chit chat with the opposite sex, but
20 during the regime, that was prohibited. If I were to speak to a
21 woman alone, then I might be accused of committing a moral
22 offense and this actually happened when a man met a woman after
23 they were separated for a long time. They were accused of having
24 a love affair and that they betrayed Angkar and that they
25 disobeyed or violated the discipline.

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

11

1 And that's what I heard about these morality, that male and
2 female combatants were not allowed to speak to one another freely
3 <like today>.

4 Q. And do you know what punishment was meted out in such cases of
5 indiscipline?

6 A. They would be punished and they required us to abide by the
7 commandment and not to do anything against it. And they made sure
8 that we did not have the rights to talk to each other <even if we
9 were related>. In that regime, it was strict, based on my
10 practical experience at that time.

11 Q. I do understand, sir. However, can you tell us what kind of
12 punishment was imposed? Was it merely rebuking the person and
13 saying that he or she did not conduct him or herself well? Did it
14 have to do with sending the person for re-education? Was the
15 person imprisoned or <possibly> executed?

16 [09.32.50]

17 A. For the minor offence, they would not be -- the person would
18 not be killed. They were simply called to meeting, what we call
19 the self-criticism meeting. So during that meeting, people would
20 criticize the person to help correct the person's behaviour to
21 follow the path of the Angkar, not to deviate from the path set
22 by the Angkar.

23 Q. Very well. I thank you. I have no further questions for the
24 Civil Party, Mr. President.

25 MR. PRESIDENT:

12

1 Thank you, judge. And now I give the floor to counsel Victor

2 Koppe to put questions to the civil party.

3 [09.33.55]

4 QUESTIONING BY MR. KOPPE:

5 Thank you, Mr. President. Good morning, Your Honours. Good

6 morning, counsel. Good morning, Mr. Civil Party.

7 Q. Just to be complete in relation to the subject of marriage and
8 morality. Let me turn your attention to something else that is
9 provided for in Rule 6. Rule 6 that says: "Do not behave in any
10 way that violates females."

11 Mr. President, I'm reading from the exact same document, Judge
12 Lavergne was using, E3/765. It says in that same paragraph, in
13 relation to the setting up of a family, that there are two
14 principles.

15 Let me -- let me quote literally for you:

16 "As for the current issue of setting up a family, there is no
17 obstacle. This just -- is just based on two principles of the
18 Party. First both parties agree. Second, the collective agrees
19 and then it is done. Why should this impact male-female
20 morality?"

21 Let me ask you about this first principle, "both parties agree".

22 Do I understand your testimony correctly when I say that
23 apparently you didn't agree to marry and therefore in conformity
24 with this principle there wasn't any marriage?

25 [09.35.52]

1 MR. SUN VUTH:

2 A. The fact that I did not get married because I protested that I
3 did not want to get married yet. It is good for the marriage if
4 both parties agree, because there would be no problem afterward.

5 Some people, who were arranged to get married, some of <> the
6 couples did not match with each other. One side <was> more
7 good-looking than the other, another side were ugly, for example.

8 I give you an example. One couple, one party had a very fair
9 complexion, like a Chinese person and for the wife, <Neav, she
10 looked> very ugly. She has a dark complexion and very fat.

11 So both <> the wife and the husband did not match well with each
12 other from their appearances. <And the husband, Ta Ban
13 (phonetic), had some resentment.>

14 [09.37.16]

15 Q. You spoke about seven other couples that you were supposed to
16 get married with. Let me first ask you do you know any of their
17 names today?

18 A. No, I cannot remember all the names, because I was quite young
19 at that time and I did not pay much attention to all the couples.
20 I can remember only a few of them.

21 Q. Do you know whether they were still together after '79, or did
22 they -- or whether they were divorced at some point in time?

23 A. I have no idea because we were separated <>, but comrade Pronh
24 (phonetic) <might still live with his wife> and another comrade,
25 Onn, (phonetic) <might> also live <with his wife>, so I -- I

14

1 <can> know, but as for others, <they were not really getting
2 along with each other; however, I did not know whether or not
3 they> were separated after the liberation day.

4 Q. But can you give us some indication as to whether any of those
5 seven couples did not agree to get married? Do you know any of
6 them who said I don't want to get married and if you know this,
7 do you know what happened subsequently?

8 A. As I told you earlier, that comrade Ban (phonetic) and comrade
9 Neav who protested not to get married. They were re-educated.
10 They were re-educated to agree to get married although both
11 parties did not want to get married. <But then, they were
12 separated. I did not know what happened.>

13 [09.39.45]

14 Q. And do you know who it was that violated first principle of
15 Rule 6? Who was the cadre that violated that principle, telling
16 those two cadres to be re-educated? Do you know?

17 A. I do not know much about the action taken regarding the people
18 who committed offenses. I did not know much about what happened
19 afterward.

20 Q. All right, thank you, Mr. Civil Party. Let me now move to the
21 questions I had prepared for you. Following up the first question
22 of the judge, in relation to the 100, 920 -- Division 920
23 prisoners, you said that you didn't know any of the names. Were
24 all those 100 names really read out to you?

25 [09.41.14]

15

1 A. Yes. I -- yeah, I listened to the names read out to me.

2 Q. Now about half of those 100, Division 920 members, also have
3 aliases or nicknames, as it is called here in English. Were those
4 nicknames also read out to you?

5 A. But I do not <recognize any> name <> of <those people that I'm
6 supposed to know>.

7 Q. There's a person Chom (phonetic) that you -- that you know? Is
8 that what you're saying?

9 A. Are you talking about Chhaom (phonetic)? I don't know Chhaom
10 (phonetic). There's no person named Chhaom (phonetic).

11 When I talk about family matters, I talk about comrade Ban
12 (phonetic), <and> comrade <Yon (phonetic).>

13 Q. Maybe something is not going well in translation, Mr. Civil
14 Party. My question -- my original question was were you read all
15 100 names and also the 50 or so aliases, or nicknames, of those
16 people of Division 920?

17 A. Yes. I read but I did not know a person -- the name of a
18 person.

19 Q. Did you also have a look at the column that indicates the
20 various titles of those soldiers? Did you see to which company,
21 to which battalion, to which regiment, etc., they belong? Did you
22 also see that column in the list?

23 JUDGE FENZ:

24 Sorry, he cannot have seen it because he hasn't read it. So
25 perhaps the question is "was it read to you", in order to avoid

16

1 confusion.

2 [09.44.14]

3 BY MR. KOPPE:

4 Q. Fair enough. Was the column with the titles of the various
5 soldiers read out to you as well? For instance, did the person
6 who read the names to you also say, for instance, Meas Set was a
7 combatant of the 2nd Company of Battalion 923?

8 MR. SUN VUTH:

9 A. Yes I read, but I did not know the names well, because perhaps
10 their names have been changed, so I can say that I do not know
11 anyone of them although they may be from Division 920.

12 Q. I understand that you do not know the names, however as I said
13 behind each name was the actual military function of that person.
14 People were members of battalion 923, 924, 921, Regiment 93.
15 Everyone has a title.

16 [09.45.48]

17 And my question to you is, having heard the -- the military
18 functions of all these people do you have an explanation as to
19 why you do not know any of them.

20 I'm asking you because you yourself said yesterday that you were
21 a Division 920 member in charge of a company. Were you in a
22 completely different company in a completely different battalion
23 and is that the reason that you do not know any of these 100,
24 Division 920 prisoners?

25 A. I came from Division 920, but when I was read out the names of

17

1 people in the list, I did not know any one of them and I did not
2 know whether they really came from Division 920. I did not know
3 any one of them. I -- although we have been separated for years,
4 if they came from a particular regiment, there should be a few
5 names that I should be familiar with, but here I -- I'm not with
6 -- I'm not familiar with any of the names.

7 Q. I understand that, Mr. Civil Party, but a lot of former
8 division soldiers, be it 920, be it from 310 or 450. They
9 frequently seem to know the battalion number, or the regiment
10 number, or the company number. You said, like I said earlier, you
11 were in charge of a company, what was the number of your company?
12 What was the number of your battalion that you were in, if any?

13 A. My company is company number 3 in battalion 11.

14 [09.48.27]

15 Q. Thank you. I might get back to that list, Mr. Civil Party. Let
16 me move on to some more questions about Division 920. Would you
17 be in a position to say how many, approximately, combatants there
18 were in Division 920? Let's take early 1977, as a benchmark. How
19 many soldiers were in Division 920, let's say in February 1977;
20 do you know roughly?

21 A. I do not remember well about the number of soldiers, but based
22 on what I know, <in Division 920,> when I was dispatched to
23 <Mondolkiri> province, there were 570 combatants, but this was
24 the figure that I estimated. It is not the exact number because I
25 was in charge of just -- I was just low ranking soldiers. If I

18

1 were in the high position, I would know the exact number.

2 And as I told you, this is a low number. It does not fit with the
3 expected size of a division that it should have a larger number
4 of soldiers.

5 [09.50.42]

6 Q. I'm looking at document E3/849, Mr. President. Would it be
7 accurate that Division 920 had about three and a half thousand
8 soldiers in February of '77? Is that something that you could
9 conquer with?

10 MS. GUIRAUD:

11 Thank you, Mr. President. One remark and objection. The civil
12 party said specifically that he didn't know the number of
13 soldiers. So it would be putting words in the witness's mouth to
14 say that there were a number of soldiers in the Division <920>
15 during <the specific> period <of February> 1977.

16 It is obvious that the civil party is not able to confirm this
17 information given the <answers> he gave earlier.

18 [09.51.54]

19 BY MR. KOPPE:

20 I know that he doesn't have exact figures. I asked an open
21 question first and then I confronted him with an actual number
22 and then I asked whether that would be his experience as well in
23 terms of approximate numbers, so it's not terribly important, but
24 I think I can ask that question.

25 Q. So Mr. Civil Party, three and a half thousand, does that sound

1 about right?

2 (Short pause)

3 [09.52.56]

4 BY MR. KOPPE:

5 Mr. Witness, did you hear me?

6 MR. PRESIDENT:

7 Mr. Vuth, please give your response to the question. Now, they
8 have a document that says about the exact number of the soldiers
9 in Division 920, and according to that document, it says that
10 there are <3,500> soldiers in the division. So what is your
11 response to this number? Because based on your previous response,
12 you said that there were <500> soldiers in that division. So it's
13 a different figure.

14 So what is your reaction to this and according to what we
15 generally know that <some> divisions have <up to> 10,000 men?

16 MR. SUN VUTH:

17 A. Yes, based on what I know, there are different hierarchies of
18 military structures, there are brigades and there are divisions.
19 And what I gave the number here is based on my estimation.
20 At that time, I saw the number of soldiers was small -- it was a
21 small size, and I can say that that division had the number of --
22 to the maximum, not more than 700 men <after the war ended>. And
23 as I told you earlier, I was simply a low ranking soldier, so I
24 did not have the exact number.

25 BY MR. KOPPE:

1 Q. You were simply a low-ranking soldier? Does that mean you're
2 not a company commander anymore, or that you were not a company
3 commander?

4 [09.55.22]

5 A. Yes, I was based at that division, but I was not fixed there
6 because I was dispatched to the borderland areas and to patrol
7 the borderland areas. Although I was part of the division, but I
8 did not stay there fixed.

9 JUDGE FENZ:

10 Q. Sorry, were you a company commander, yes or no? We need
11 answers to some of the questions.

12 MR. SUN VUTH:

13 A. Yes, I was the company commander. I was assigned to be in
14 charge of the company, but I did not stay in that role for a long
15 time. I was in that role for only a few months, and then I was
16 assigned to patrol the border areas. And that's why I did not
17 know much about the exact numbers of soldiers.

18 [09.56.40]

19 BY MR. KOPPE:

20 Q. Is it about right when I say that approximately between 400
21 and 500 members of Division 920 were at any point in time
22 arrested for possibly having committed treason?

23 MR. PRESIDENT:

24 Mr. Civil Party, please hold on, and the floor is given to the
25 International Deputy Co Prosecutor.

21

1 MR. LYSAK:

2 I'd ask counsel to provide the source for this information. I'm
3 not sure how this witness will be in position, but he can
4 certainly have been asked to give an estimate. But he should give
5 the source, because the number I think he's talking about is not
6 the total number of people who were arrested, it was the total
7 number sent to S 21. There were, of course, many others who --
8 who would have been detained within Mondolkiri.

9 So he should be clear on the source of his information here.

10 MR. KOPPE:

11 On that last remark, Mr. President, was evidence offered by the
12 Prosecution. I don't have it right now in front of me, but in the
13 book by DC Cam on the purges in Mondolkiri, I think the number of
14 400 and 500 is mentioned. I believe there is also testimony of a
15 sector division commander agreeing to the number of 500 being
16 mentioned.

17 [09.58.20]

18 JUDGE FENZ:

19 Counsel, without a reference, thinking there is evidence doesn't
20 --

21 BY MR. KOPPE:

22 I will -- I will reframe -- reformulate my question.

23 Q. Mr. Civil Party, do you know roughly how many people within
24 Division 920 were arrested?

25 MR. SUN VUTH:

1 A. Based on what I know about the arrests, those people,
2 including Ta Chhin, Ta Soy at the division level, who were
3 arrested, and there were also comrade Kol, <comrade Ian
4 (phonetic) and> comrade Ban, who were also arrested <from the
5 battalion. There were two people named Ban. One was the one whom
6 Angkar arranged the marriage for.>

7 [09.59.32]

8 I did not know whether they betrayed Angkar or not, but when they
9 were arrested, they were told and accused that they betrayed
10 Angkar.

11 Q. That was not really an answer to my question, Mr. Civil Party,
12 but it's not very important; I'll move on. Do you know whether
13 Division 920 was originally, or at least in most part, if its
14 members, a division from the former North Zone? In other words,
15 was Division 920, like Division 450 and 310, originally a North
16 Zone division?

17 MR. LYSAK:

18 Again, I'd ask that he ask an open question, and if he's going to
19 try to lead the witness with, I think, what is incorrect
20 information, he should have a source, because that's not my
21 understanding of where the division came from.

22 [10.00.42]

23 BY MR. KOPPE:

24 As a matter of fact, I have now in front of me a source. It is

25 E3/1664; ERN, English only, 00397617; Footnote 137, of that book

1 -- the DC Cam book. It says:

2 "Division 920 was formed out of one of the three former divisions
3 of Koy Thuon and Ke Pauk's old North Zone."

4 And that comes from the personal communication between Sara Colm
5 and good old Steve Heder, dating December 13, 1997.

6 There is also evidence in E3/8989, and that is evidence of a
7 cadre that I was about to put before the witness, but if you
8 allow me, I will ask the question again, Mr. President.

9 Q. Mr. Civil Party, was Division 920 -- let me reformulate. Where
10 did most of the people of Division 920 originally come from?

11 [10.02.08]

12 MR. SUN VUTH:

13 A. I came to Division 920, that is, in the North Zone; however, I
14 did not know who actually created that division. I did not know
15 whether it was Ke Pauk or someone else who created that division.

16 Q. Let me now move to that DC Cam interview, E3/8989. Mr. Witness
17 -- Mr. Civil Party, this witness seems to be saying to DC Cam
18 that 920, together with 450 and 310, were originally North Zone
19 divisions. Let me read to you what he says at English ERN,
20 01208401; and Khmer only, 00958877.

21 Question: "You only know the North Zone divisions?"

22 Answer: "Yes, I do."

23 Question: "When Oeun" -- Oeun is the commander of 310 -- "thought
24 up his traitorous plot, were people from other divisions arrested
25 too? For example, Division 920?"

1 Answer: "Yes, they were arrested. Three divisions were implicated
2 in the plot."

3 "Were people from all three divisions arrested?"

4 "Yes, they were."

5 Mr. Civil Party, do you know whether the arrests of Division 920
6 members had anything to do with arrests of members of Divisions
7 310 and 450?

8 [10.04.25]

9 A. I did not know about that. I did not know whether they were
10 implicated in the so called betrayal. I only knew about what
11 happened at my division and I cannot say about what happened in
12 other divisions or any arrests that happened in those divisions.
13 I did not know about those events at all, and as I said, I only
14 knew what happened in my division and that's what I can tell you
15 about.

16 Q. Mr. Civil Party, in this courtroom we heard evidence coming
17 from Division 310 combatants indicating there was a plan for a
18 rebellion, a plan for a coup d'etat, a plan to store weapons in
19 order to attack Radio Phnom Penh and Pochentong Airport. I will
20 not read that evidence to you, let me introduce some new evidence
21 in relation to this plot and then I would like to ask your
22 reaction, if you have any.

23 [10.05.50]

24 Mr. President, let me start with document E3/735 (sic); English
25 ERN, 00324168; French, 00324206; and Khmer, 00087817.

25

1 This witness speaks about Oeun, Division 310 commander, and he
2 states as follows:

3 "At that time he" -- Oeun -- "was linked to the 'Yuong', who
4 wanted to up-rise in Phnom Penh. He" --Oeun -- "planned an attack
5 plot. First --"

6 Let me read my --

7 MR. PRESIDENT:

8 Counsel, please hold on, and the International Deputy Co
9 Prosecutor, it seems that you should know when you should rise.

10 MR. LYSAK:

11 Thank you, Mr. President. The document number that he read out,
12 it doesn't match with an interview. So I'd like him to re read
13 that. This has happened before, where he's read out an incorrect
14 number and it's turned out he was providing information that came
15 from a confession.

16 So I just want to be able to see what the actual document is
17 before he reads it.

18 [10.07.24]

19 BY MR. KOPPE:

20 I think the Prosecution is correct; I might have used the wrong
21 number.

22 It is E3/7535. It's a DC Cam interview with a person whose name I
23 will not mention. It's an interview of 20 January 2005. Thank you
24 for the interruption, Mr. Prosecution.

25 Q. Let me read again to you what this witness says. He's talking

1 about Oeun, the division commander. He says:

2 "At that time, Oeun, was linked to the 'Yuon', who wanted to
3 up-rise in Phnom Penh. Oeun planned an attack plot. First, he
4 called us for a secret meeting and instructed us that he planned
5 to attack Phnom Penh. He told to deliberate and take control of
6 Phnom Penh. He said that society was not good."

7 [10.08.28]

8 "One hundred combatants, including me, were called to attend that
9 meeting. I took on a truck full of weapons to meet him in Phnom
10 Penh in the preparation to attack Phnom Penh. Unfortunately, the
11 plot was compromised. Assault force as well as prevention force.

12 We received bullets, and munitions from foreign countries."

13 And then a little further, he says:

14 "It was not that easy, I guessed. If we could not defeat Pol Pot,
15 we would appeal to Vietnam, and called for force at the east
16 under Chakrey to help. First, they planned to attack from inside.
17 When the plot was compromised, they called for help from the
18 'Yuon'."

19 There is a second witness, also from Division 310, that is,
20 document E3/7540; English ERN, 00337712; and French, 00364274:

21 "In late 1976, we were going to erupt but it was exposed. The
22 two North Zone divisions were readied from Wat Phnom northward.
23 The East Zone in charge to the south was ready to fight, but it
24 was exposed, and Koy Thuon, the Chairman of the North Zone, was
25 arrested."

1 [10.10.10]

2 Because of time, I will not read some more excerpts. Let me one
3 small -- finish one small excerpt from another witness, who is
4 saying -- that is, E3/7583; at English ERN, 00876558 to 59. I
5 will give you the Khmer ERN a bit later, Mr. President. It says:
6 "It was a treasonous meeting because they were going to stage a
7 rebellion. It was a CIA meeting. At that time, they were planning
8 to attack the Pol Pot garrison, but they failed because Ta Oeun,
9 who was in the same clique with Hun Sen, was arrested." End of
10 quote.

11 Mr. Civil Party, these are -- this is testimony evidence from
12 former Division 310 cadres. You've heard what they were saying
13 about a plot.

14 Does any of this sound familiar to you? Were you asked questions
15 when you were arrested about this plot described by Division 310
16 members or can you give any reaction at all?

17 [10.11.40]

18 MR. SUN VUTH:

19 A. I had no knowledge at all about this. I was arrested and I was
20 accused of being a traitor of Angkar, since I was a part of the
21 network of my commanders. I never heard about any revolt or
22 rebellion against Angkar.

23 And as I said, I was arrested as I was accused of betraying
24 Angkar, but during my interrogation, I said I never did that, and
25 that I was loyal to Angkar <although they kept beating me up>.

28

1 because I did not know anything at all about a betrayal. I served
2 Angkar with my full heart and I never thought of betraying at
3 all.

4 MR. PRESIDENT:

5 Thank you, Counsel, and thank you civil party.

6 It is now convenient for a short break. We will take a break now
7 and resume at 10.30.

8 Court officer, please assist the civil party at the waiting room
9 reserved for witnesses and civil parties and invite him back into
10 the courtroom at 10.30.

11 The Court is now in recess.

12 (Court recesses from 1013H to 1032H)

13 MR. PRESIDENT:

14 Please be seated. The Court is now back in session.

15 And I would like to give the floor to Defence Counsel for Mr.

16 Nuon Chea to continue putting questions to the civil party.

17 MR. KOPPE:

18 Thank you, Mr. President. Allow me to start by giving you the
19 reference in relation to Division 920 soldiers, or the numbers,
20 rather, that were sent to S 21, or so it seems.

21 I was getting my information from a DC Cam publication called
22 "Khmer Rouge Purges in the Mondolkiri Highlands". It's E3/1664.
23 It can be found on page 4 of the book, and it's on English ERN
24 only, 00397577.

25 [10.33.48]

1 It says and I quote literally:

2 "Starting in 1977, more than 400 soldiers from Division 920 were
3 rounded up in Mondolkiri and sent to S 21."

4 So that's where I have that number from.

5 I still owe you a French and Khmer ERN of the last citation that

6 I put before the civil party in relation to the rebellion of Oeun

7 and Oeun, the Division 310 commander, being in the "same clique

8 with Hun Sen". That is, French, 00407996; Khmer, 00053869.

9 And to be -- I didn't hear you.

10 JUDGE FENZ:

11 I think it was an internal issue.

12 MR. KOPPE:

13 Oh, I apologize. So that's -- these were the French and Khmer

14 ERNs of the last excerpt, and just to be complete, these three

15 citations of these three Division 310 soldiers, you can read in

16 our recently filed requests.

17 [10.35.37]

18 MR. PRESIDENT:

19 Please repeat the ERN in Khmer.

20 MR. KOPPE:

21 No problem, 00053869, and it is document E3/7583.

22 And I was saying that you can find these citations from those

23 three Division 310 soldiers or combatants in our recently filed

24 application asking for six witnesses to appear before the Chamber

25 and the citations are from three of them, Witness A, Witness B,

1 and Witness E, we call them. I won't give any names at this
2 stage.

3 [10.36.43]

4 MR. LYSAK:

5 Yes, Mr. President, before counsel resumes his questioning, just
6 so the record is complete on this. There are actually some Khmer
7 and French ERNs for the publication regarding the purges in
8 Mondolkiri that list the over 400, Division 920 people. It's at
9 the back of that book. There is an actual list that was compiled
10 of all the Division 920 and Sector 105 individuals, who were sent
11 to S 21

12 You can -- this in document -- the same document counsel has
13 cited, the book Khmer Rouge Purges in Mondolkiri, E3/1664. You'll
14 find that list of people sent to S 21, beginning at Khmer,
15 00742841; French, 00707392; English, 00397712, that's the
16 beginning of this list.

17 So just so that it's on the record. There -- one can look at that
18 in all three languages.

19 BY MR. KOPPE:

20 Q. Good morning again, Mr. Civil Party. Let me turn to your
21 activities as a 920 combatant.

22 Yesterday, you said, "I was at the battlefield. I was at the
23 front battlefields under the division authority." You said, and I
24 quote you, you "were assigned to defend the border" and you were
25 "working to protect the territorial integrity."

31

1 Can you give us some concrete examples as to what you were doing
2 performing these tasks? Where were you patrolling, what did you
3 encounter? What was your experience at the border at the front
4 battlefield?

5 [10.39.22]

6 MR. SUN VUTH:

7 A. I patrolled along the border. My main task was to make spikes
8 and to dig trenches <to put the mines>, and especially, to ensure
9 that the "Yuon" cannot enter our territory.

10 And for the battlefields, I was assigned to Chrok Mereuch
11 (phonetic) and Ou <Dak> Dam, and Ou Pul (phonetic), so these are
12 -- these were the locations that I was assigned to make spikes,
13 dig trench, and to lay traps <and mines>. <We also learned from
14 the ethnic people there how to lay traps.> So we put these traps
15 and make spikes and lay them at the borderland area to defend our
16 territory.

17 [10.40.54]

18 Q. Thank you, Mr. Civil Party. Let me read -- I don't have that
19 much time anymore, unfortunately -- one or two telegrams to you,
20 telegrams which were coming from your division and which were
21 signed by the leader of its time, comrade Chhin.

22 And more specifically, Mr. President, I'll be referring to
23 E3/8377. It's a telegram of 19 February 1976; English ERN,
24 00305245; Khmer, 00021458; French, 00643478.

25 Division Leader Chhin writes to Beloved Brother Say and he says

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

1 the following in the telegram:

2 "I would like to report about the situation along the border
3 where comrade Ul is in charge. On 17 February 1976, our people
4 went on patrol along the border at the location of Tuy To Saing
5 (phonetic) in Puk Rak (phonetic) village, and encountered Group
6 7, who mobilized the people to clear the outer farmland where the
7 rice fields were inside.

8 At 8:30, Group 7 came to meet us near Ou Dak Dam. There were 50
9 of them, including villagers and indigenous people. They were
10 armed. In the presence of their five star commander, our people
11 asked them what they were doing, and they responded that they
12 were patrolling the border."

13 [10.43.01]

14 The telegram goes on for a bit, but let me stop here, Mr. Civil
15 Party.

16 The telegram talks about patrolling along the border at location
17 Tuy To Saing (phonetic) in Puk Rak (phonetic). Does that ring a
18 bell to you, patrolling at that area?

19 A. Yes, I heard but I never heard the name of a place called Tuy
20 Ti Saing (phonetic). It's called -- the area called Troyo Saing,
21 and there were battlefields in that area and there were also
22 battlefields in another area, which I cannot recall the name.
23 I also patrolled in Pech Chenda, <Kaev Seima> and <Saen Monourom>
24 and <I used to patrol in Ou Pul (phonetic),> Ou Dak Dam, and
25 Troyo Saing. So these were the areas that I patrolled. And I'm

1 familiar with this area, and based on the local name, we call
2 that area Troyo Saing (phonetic).

3 [10.44.38]

4 Q. In this telegram, comrade Chhin refers two times to an entity
5 called Group 7. Do you know what Group 7 was? What does Chhin
6 mean when he speaks about Group 7 coming to meet Division 920
7 cadres, for instance, at Ou Dak Dam?

8 A. I did not know about the so called Group 7. I cannot recall it
9 well. I do not know who were the people in this so Group 7. It
10 can be referred to the "Yuon" or it can be referred to the Khmer
11 soldiers themselves. So I'm not clear about this.

12 Q. When you were at the front battlefield, as you called it,
13 patrolling the border, did you ever encounter -- did your unit
14 ever encounter Vietnamese soldiers?

15 A. Yes, we encountered them. When I first arrived, I met them and
16 we shook hands, and <in '75,> we -- I met them at Ou Dak Dam and
17 Trapeang Chhuk about once, or two, or three times. But at a later
18 stage, they claimed that their area was beyond Ou Dak Dam, and I
19 disagreed with their claims. They said that their -- their land
20 was beyond the line. They said that Ou Dak Dam was not the
21 borderline. Their land was beyond Ou Dak Dam. <Their land was
22 until Mereuch (phonetic) or Kaoh Nheaek.>

23 [10.47.22]

24 So I disagreed with this because my task was to defend the border
25 territory. So, I <reported to the upper echelon>. And people at

34

1 the upper echelon instructed us to fight, so I followed the order
2 and I dispatched my force. And when they came, we shot at them
3 and seven of them were killed.

4 I received the order from the upper echelon that we needed to
5 defend the border and that the real borderline was at Ou Dak Dam.
6 So since that fighting incident occurred, we became enemies.
7 Wherever we encountered each other, we shot at each other.
8 So we started to make spikes and laid traps that could be used to
9 deter the encroachment of our enemy. So every day we spent our
10 time making spikes and laying traps. <We learned that from the
11 ethnic people in Mondolkiri. Two of the Vietnamese were killed by
12 the traps. So, I patrolled every day.> And these spikes and traps
13 were very effective because when they fell on our enemy, our
14 enemies were killed instantly.

15 But I felt painful that later on the upper echelon did not trust
16 me and arrested me <because during the regime, I was very
17 committed>.

18 [10.49.22]

19 Q. I understand that, Mr. Civil Party. Following up on what you
20 just said about spikes and traps, let me read to you an excerpt
21 from another telegram and maybe I can ask you to give a reaction
22 to this.

23 It's, Mr. President, document E3/978; English ERN, 00324808;
24 Khmer, 00020884; French, 00623016. It's a telegram from comrade
25 Thuon to comrade Yi, and he writes as follows:

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35

1 "1. The situation along the "Yuon" border. They have deployed
2 their troops from Route 13 to Route 14. On the 26th of October"
3 -- 1977, I add that -- "they launched a military maneuver by
4 intruding into 64. They fell into our spike traps. They dragged
5 their wounded people away. On 1 October in Trapeang Chlounh they
6 exchanged fire with us. Two of them died. We were unharmed. We
7 want to make mines and hand grenades." End of quote.

8 Mr. Civil Party, this telegram is from the 5th of November '77,
9 so I believe that you were still active in Division 920, but in
10 any event, is this encounter with the Vietnamese military
11 something that you recollect?

12 There seems to be no translation in Khmer.

13 [10.51.25]

14 MR. PRESIDENT:

15 There is -- there was no Khmer translation.

16 The Khmer translation, you need to translate more because Koppe
17 had said a lot and you just gave only a short translation. I
18 instruct Counsel, Victor Koppe, to repeat your questions so that
19 we can get a full Khmer translation.

20 BY MR. KOPPE:

21 Q. Certainly, Mr. President. So Mr. Civil Party, I was reading
22 from a telegram, dated the 5th of November 1977, and it is about
23 the situation along the "Yuon" border, and it says, "They have
24 deployed their troops from Route 13 to Route 14." And then it
25 says:

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1 "On the 26th of October, they launched a military maneuver by
2 intruding into 64. They fell into our spike traps. They dragged
3 their wounded people away. On 1 October in Trapeang Chlounh they
4 exchanged fire with us. Two of them died. We were unharmed. We
5 want to make mines and hand grenades." End of quote

6 [10.53.06]

7 Mr. Civil Party, I believe you were still active at that time in
8 Division 920. Is this an incident that you recall, military
9 maneuvers by the Vietnamese troops, end of October?

10 MR. PRESIDENT:

11 Mr. Civil Party, please hold on. The floor is given to the
12 International Deputy Co Prosecutor.

13 MR. LYSAK:

14 Thank you, Mr. President. I don't object to counsel putting this
15 document to the witness, but since the witness hasn't been
16 provided, counsel should be clear this is not a report from the
17 sector the witness is from. This is from a completely different
18 sector. It's fine for him to ask if he has any knowledge, but
19 this is not from Mondolkiri sector, it's from Kratie.

20 [10.54.05]

21 BY MR. KOPPE:

22 Q. Let me get back on that and let me simplify my question,
23 because I was actually interested in one particular part, and
24 that was following up from what the civil party had earlier said.
25 The sentence, "They fell into our spike traps", which is quoted

1 here, is that something that you referred to as well, the spike
2 traps used at the border to prevent the Vietnamese troops from
3 entering Democratic Kampuchea territory?

4 MR. SUN VUTH:

5 A. When I patrolled and performed my tasks, two Vietnamese were
6 wounded by the spike traps, and two Vietnamese were killed by the
7 spikes traps in <between> the locations <of Ou Dak Dam and Ou Pul
8 (phonetic)> that I patrolled.

9 [10.55.29]

10 Q. And these spike traps, where did you put them? Did you put
11 them on territory of Democratic Kampuchea, or were they placed
12 somewhere else?

13 A. Yes, we laid them within the Cambodian border areas <not in
14 Vietnam's territory>, so when the Vietnamese entered our
15 territory, they faced with the traps.

16 Q. Thank you, Mr. Civil Party. Let me turn now to a third and a
17 last example of enemy fighting, enemy activity. That is something
18 that did happen in the area where you were stationed.

19 Mr. President, that is document E3/1030; Khmer ERN, 00033312;
20 English, 00324806; French, 00623150.

21 This is not a Division 920 telegram, it seems, it is a sector
22 military telegram, we believe. It is written by Sophea, 20 June
23 1977, addressed to beloved and missed Brother Chhan, and he
24 writes the following -- this Sophea:

25 "We would like to report about the situation of the 7 Group as

1 follows: At Au Phlay, they intruded 20 metres into our land and
2 cut bamboo."

3 [10.57.28]

4 A little further, in paragraph 2:

5 "The 7 Group that attacked us at Pech Chenda has now attacked and
6 entered Pou Chri Chas village and Tonh village and Dei Edth.

7 There were 30 of them. We are now organizing forces to ambush
8 them. Comrade <Veang> is organizing a force to monitor them
9 further."

10 And then three:

11 "The border situation at Dak Dam, we have found one of their
12 positions between Troyo Saing and Ou Reang. Seven houses are
13 there." End of quote.

14 Does this enemy activity --

15 [10.58.16]

16 MR. PRESIDENT:

17 Please hold on. The floor is given to Judge Lavergne.

18 JUDGE LAVERGNE:

19 Yes, Counsel Koppe, perhaps we should point out that in the
20 French and English versions <of this document> there are
21 discrepancies. In the English version, they are talking of an
22 incursion of a distance of 20 metres, and in the French version,
23 they are talking of an incursion over a distance of 20
24 kilometres.

25 So may we ask you to check with the ITU which of the versions is

1 the right one?

2 BY MR. KOPPE:

3 We can agree that they're both incursions and if it's indeed 20
4 kilometres, it's, of course, much worse, but I'm happy to check
5 the Khmer version, E3/1030.

6 But we'll get back to that, Judge Lavergne, and let me ask the
7 question first.

8 Q. Mr. Civil Party, this enemy activity, again of Group 7
9 attacking Au Phlay and Pech Chenda, does that somehow sound
10 familiar to you?

11 MR. SUN VUTH:

12 A. I do not know about the fighting in those areas.

13 Q. But I believe you said that you also patrolled in Pech Chenda;
14 is that correct?

15 A. Yes, sometimes I patrolled that area, but only -- but when the
16 incident that you mentioned happened, I was not aware of because
17 I was not at that location and I did not -- I was not involved in
18 the fighting myself.

19 [11.00.45]

20 Q. I'm just informed, Mr. President, that it is a wrong French
21 translation. It is indeed 20 metres, it seems, in the Khmer
22 version.

23 Mr. Civil Party, besides installing spikes and traps and
24 patrolling, were you ever involved in actual combat with
25 Vietnamese troops? Were you actually shooting at the Vietnamese

40

1 troops, wounding or even killing Vietnamese combatants?

2 A. Yes, for my spearheads, I personally engaged in two attacks
3 against the Vietnamese troops while I was stationed along the
4 border area. Three Vietnamese soldiers died on that battlefield,
5 and on our side, a soldier was wounded. At that time, they <were>
6 actually trespassing into the territory of Kampuchea, then I
7 ordered the combatants to shoot them and the fighting lasted for
8 about 30 minutes before they retreated into their territory
9 leaving behind the dead soldiers.

10 [11.02.19]

11 Q. My last question to you, Mr. Civil Party. I'm running out of
12 time -- I have run out of time already.

13 Would you agree with me that it was -- that it were continuously
14 the Vietnamese troops who were entering DK territory, trespassing
15 DK territory, attacking DK territory? Was it the Vietnamese, who
16 most of the time started enemy activity?

17 A. Yes, it was the Vietnamese who did that, who entered our
18 territory. For us, on the Cambodian side, we never encroached
19 into the territory of Vietnam, and they did onto our territory.
20 And they claimed that it was their territory, although the border
21 demarcation was along Ou Dak Dam stream. And it's straight
22 through Troyo Saing.
23 But they claimed at one point that their territory extended 5 to
24 20 kilometres deep inside our territory. And that was the causes
25 of the continuing clashes at the time.

41

1 [11.03.52]

2 MR. KOPPE:

3 Thank you very much, Mr. Civil Party. Thank you, Mr. President.

4 MR. PRESIDENT:

5 I'd like now to hand the floor to the defence team for Khieu

6 Samphan to put questions to the civil party. You may proceed.

7 QUESTIONING BY MS. GUISSÉ:

8 Thank you, Mr. President. Good morning to all of you. Good

9 morning, Mr. Sun Vuth. My name is Anta Guissé, and I am the Co

10 International Counsel for Khieu Samphan, and it is in this

11 capacity that I will put a few questions to obtain clarification.

12 You said that you were a company chief in Mondolkiri right after

13 having been Ta Chhin's messenger, and it is when Ta Chhin was

14 assigned to Mondolkiri that you took on that function. Is that

15 the case?

16 [11.04.56]

17 MR. SUN VUTH:

18 A. Yes, that is correct. At that time, he came and he assigned me

19 to be in charge of that company.

20 Q. Did <a> messenger replace you <in the> messenger <position

21 that> you were for him?

22 A. There were more than one messenger for that division and there

23 were five to six messengers. And so amongst those messengers, I

24 was older and for that reason, I was removed from the messenger's

25 post and promoted to be in charge of a company <stationed at the

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1 border>. And then there was another messenger, who was assigned
2 to be with him.

3 [11.06.20]

4 Q. I know that you have a lot of things to say, but please be as
5 specific as possible in your answers and I, of course, on my side
6 will try to put precise questions to you, given the amount of
7 time that I have.

8 You said that when you were assigned to defend the border as a
9 company chief, <> sometimes you would go back to the division
10 office from time to time, and this you said yesterday, a little
11 bit after <15.15.56> in the afternoon, you said that, "this did
12 not happen very often and that you would <go> every two weeks, or
13 sometimes once a month."

14 So my first question is where was this division office?

15 A. It was located right in Kaoh Nheaek. It was not far from Ou
16 Chbar. The division office was about 500 metres away from Ou
17 Chbar.

18 Q. Do you know if this office had a <particular> name<>?

19 [11.08.04]

20 A. No, I did not know whether it had any unit or special name. I
21 only knew it was the division's office.

22 Q. Wasn't there a code name for this office?

23 A. There was a code name but I cannot recall it. It, as you know,
24 it happened a long time ago. My apology for that.

25 Q. So you said that you would go back to this office from time to

1 time. Who gave you the authorization to travel to the office?

2 A. Sometimes I was sent by my superior, and sometimes I wanted to
3 visit the office and I would stay there for two to three days and
4 then I returned to my base. And sometimes I actually went to the
5 division office in order to make my report to that division, and
6 I would stay there for a day or two and return to my base.

7 Q. You are saying "I", so must I understand that you were going
8 to that office on your own, that is to say, that the other
9 members of your company would not <go> with you?

10 A. Sometimes we went in a group of two to three. I never
11 travelled alone. We had to go through forest and some other
12 obstacles, so usually we travelled in a group of two or three.
13 Sometimes we travelled in a group of five.

14 Q. And when you would spend two to three days over there, would
15 you sleep over there? Would you sleep at the division office?

16 [11.10.36]

17 A. Yes, at that office. There were actually houses in the
18 surrounding vicinity where we stayed, and of course, we didn't
19 stay there with the commander.

20 Q. So when you're speaking about a house, what kind of house was
21 it?

22 A. Those houses were small in size and five or six of us would be
23 able to stay in that house as we slept on hammock. It was not
24 actually a proper house. The house was built on the round wooden
25 poles, and it was meant to provide provisional sleeping quarters

1 for soldiers.

2 Q. Now, I would like to discuss the moment when you were
3 arrested. You said that you were arrested after your superiors
4 had been arrested.

5 So my first question is, well, earlier on today you spoke about
6 your superiors, who allowed you, or gave you the authorization to
7 go to the division office. So who were these superiors; first
8 question?

9 [11.12.32]

10 MR. PRESIDENT:

11 Civil Party, please observe the microphone.

12 MR. SUN VUTH:

13 A. It was Ta Chhin who was my superior. He's the one who
14 authorized for my travel and sometimes, if I had to go, I didn't
15 have to wait for his authorization.

16 BY MS. GUISSÉ:

17 Q. You say, therefore, that you were arrested after Ta Chhin was
18 arrested and at first, you said it was one month after he had
19 been arrested and then, when the Co-Prosecutor was putting
20 questions to you about Ta Chhin's arrest date, you said that you
21 were arrested during the harvest season; that might have been,
22 therefore, November or December 1977. So did I understand your
23 testimony properly? <Is the date you remember of the arrest>
24 November or December 1977?

25 [11.13.55]

1 A. That was about the month that I was arrested; that is,
2 November or December, since it was a harvest season.

3 Q. I didn't understand your answer clearly. I heard that "I was
4 arrested for -- for about a month in -- in -- or -- in November
5 or December 1977," so -- so what do you mean; do you mean you
6 were arrested one month after Ta Chhin was arrested or you were
7 arrested for a duration of one month?

8 A. He had been arrested for about two to three months before my
9 arrest and I didn't know about my arrest, at all; they simply
10 came to arrest me.

11 Before my arrest, there were arrests of those who were in higher
12 positions. <As for> commanders of a regiment and I, myself,
13 <would be> considered <> low-ranking combatants. <I did not know>
14 why I was arrested <> since I never committed any act against
15 Angkar or betrayed Angkar at all.

16 [11.15.41]

17 Q. Mr. Sun Vuth, I know that it's a bit challenging, but please
18 listen to my questions carefully and please give me precise
19 answers and answer only the questions I'm putting to you because
20 I don't have much time, so -- and I don't want to have to request
21 extra time from the Chamber.

22 So you said that you were arrested, can you tell us where you
23 were arrested<>?

24 A. I was arrested in Kaoh Nheaek.

25 Q. And where exactly in Kaoh Nheaek?

1 A. It was at the military base where I was posted.

2 Q. So between the time when your superiors were arrested and <the
3 time> when you were arrested, were you at Kaoh Nheaek <> the
4 <whole> time or did you go to the frontline as well?

5 A. I was back and forth between the rear and the frontlines and
6 when I returned from the frontlines, I did not know why, but they
7 simply arrested me.

8 Q. And during these months between your arrest and the arrest of
9 your superiors, who gave you the permission to travel to the
10 division office since Ta Chhin had been arrested and was no
11 longer there?

12 [11.17.53]

13 A. Nobody gave me that permission. I, actually, went to the
14 office on my own initiative. Usually I would go to that office
15 after a week or so and, as I said, lastly when I returned to the
16 office, I was arrested.

17 And I was so puzzled for my arrest since I spent most of my time
18 at the frontline to lay traps or to plant spikes to protect the
19 territory, but what could I do since they already arrested me?
20 And if I knew that I would be arrested, I would not have returned
21 to the office and I would flee.

22 Q. My apologies for interrupting you. Please provide me with
23 short answers.

24 You said that you were arrested after you had returned to the
25 base, but a bit earlier, I asked you if you remained at the base

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1 <> between <> when your superiors were arrested and when you were
2 arrested, so I must understand <from your answer> that before you
3 were arrested, you had <already> returned to the base and Ta
4 Chhin <was no longer on duty and> had already been arrested. So
5 during this period, did you see who replaced him and were you
6 <told> anything about this?

7 [11.19.45]

8 A. Nobody told me anything about his arrest. I -- even for my
9 arrest, I did not know the reason and I -- at -- at the time, I
10 heard that he was sent for study session.

11 Q. And who was at the division office in his absence?

12 A. After the arrest of Ta Chhin, people came from Division 801,
13 <under the order of Ta> Saroeun, or Ta 05, <to come> control
14 Division 920.

15 Q. So I'd like to get back to the day when you were arrested. You
16 said that three people pointed their guns at you and blindfolded
17 you and then took you to a detention centre, so my first question
18 is: Were you the only one in your company to be arrested on that
19 day?

20 A. Yes, I was the only one who was arrested.

21 [11.21.40]

22 Q. So these people blindfolded you and you said that's why you
23 did not know exactly where you were taken to, so can you tell us
24 how you were taken to the detention centre?

25 A. After they pointed the gun at me, they tied me up; they

1 blindfolded me, and then they walked me and I did not know which
2 direction I was heading to. They keep pushing me and walk me, but
3 I didn't have a sense of which direction I was heading to.

4 Q. And for how long did you walk before you arrived at the
5 detention centre?

6 A. It was not that far. I could say that it was less than half a
7 kilometre and then I was interrogated. However, during the
8 initial interrogation, they didn't remove the blindfold from me
9 yet.

10 [11.23.07]

11 Q. Please, please, please, again, Mr. Sun Vuth, I have specific
12 questions to put to you, so please give me specific answers. We
13 will speak about what happened <when you arrived> afterwards, but
14 my question -- my specific question was: For how long did you
15 walk? If you remember, fine; if you don't, well, then we can move
16 on to another question.

17 A. I could not tell you how long, as I didn't have a watch to
18 refer to; however, I can tell you the distance; it was about 500
19 metres or half a kilometre. So I could say that I walked for
20 about 10 to 20 minutes for that distance and, at that time, it
21 was almost nightfall and it was difficult to <estimate it> and it
22 was even more difficult when I was blindfolded and, of course,
23 after they arrested me, I was very fearful about my life.

24 Q. When you arrived, you said that you remained blindfolded <>
25 during your first interrogation, so my question is: When did they

1 remove the blindfold<?> And please answer my question precisely.

2 A. Actually the blindfold was removed when I was put into the
3 room that I was detained in.

4 Q. Yesterday you said that when you were in the detention cell,
5 you were on your own at first and then two other people came in
6 two to three days later, I believe. So did I understand your
7 testimony properly?

8 [11.25.35]

9 A. Yes, that is correct. Initially, there was only me who was
10 detained in that room and about a day after, two more people were
11 brought in and detained in the same room.

12 Q. And was this cell locked?

13 A. Yes, it was locked.

14 Q. So you described the prison as having wooden walls, so there
15 were walls in the room where you were detained and a door, and
16 was the door a wooden door as well?

17 A. In fact, there were only some wooden planks that they put in
18 between the wall and it's also used to partition the room,
19 although there were gaps that we could see and this room was
20 built on wooden poles and the pole was placed deep inside the
21 ground.

22 [11.27.14]

23 Q. I will get back to this description <of the location> later;
24 however, I would like a point of clarification with regard to how
25 long you were detained.

1 In your supplementary information form, document E3/6760, on the
2 first page in all languages, you say that you remained detained
3 there for one year, and yesterday, when you were answering a
4 question put to you by the civil party Co-Lead Lawyer at 2.43,
5 you said that you were detained for six months, and a few minutes
6 later, when you were answering the Co-Prosecutor at <3.43>,
7 therefore, you said that you had been detained for 3 months and
8 10 days, so can you tell the Chamber what was the exact duration
9 of your detention?

10 A. Maybe I made a mistake in relation to the duration of my
11 detention. It was not up to a year and it could be up to five
12 months that I was detained. I cannot make a real recollection of
13 the duration of my detention there.

14 Q. So now we're no longer speaking about six months; we're no
15 longer speaking about three months and 10 days; we're speaking
16 about five months. Is that what I must understand?

17 A. Yes, five months; that was about right.

18 [11.29.14]

19 Q. When you were answering a question regarding the description
20 of the prison; that was yesterday, a little bit after 3.52 and 45
21 seconds, you said that the place where you were, <> and I quote,
22 "This prison was a temporary centre which housed prisoners. The
23 prisoners would remain there for <> one month before being
24 executed. That's what I thought back then. Maybe some prisoners
25 were detained there for two months <only, one to two months>."

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1 End of quote.

2 So if this place was a temporary place, how can you tell us that
3 you remained there for five months? Can you clarify this please?

4 [11.30.28]

5 A. Yes, I can clarify that because the prison, itself, was not a
6 proper prison since detainees could escape, so I could say that
7 it was not meant to -- to house the prisoners for a long time.

8 Q. I don't quite understand the concept of <a> prison <from which
9 you can escape>, since you explained that when you arrived, you
10 were put in a cell that was locked; can you explain what <seems
11 to me to be> a contradiction?

12 A. When I was sent there, yes, it was a prison and when I was
13 brought inside, yes, it -- the door was locked.

14 Q. So why did you answer the previous question by saying that it
15 was a prison from which you could escape if the doors were
16 locked?

17 A. It's based on my evaluation of the physical structure of the
18 prison. I -- based on my thinking that if the detainee was a real
19 person with serious offences, they could flee if they wished to.

20 MS. GUISSÉ:

21 I'll stop here, Mr. President, because I see it is time for the
22 lunch break and I will resume after the lunch break.

23 [11.32.56]

24 MR. PRESIDENT:

25 Thank you. It is -- the hearing of this civil party has not come

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1 to an end before lunch break, as we had expected, so I would like
2 to inform parties to come back at 1.30 to resume the hearing of
3 this civil party.

4 And I would like to inform Mr. Civil Party, that the hearing of
5 your testimony has not come to an end yet. You need to come back
6 in the afternoon session.

7 And court officer, in collaboration with WESU, please make
8 necessary arrangement for the staying of this civil party during
9 the afternoon lunch break.

10 Security personnel are instructed to bring Khieu Samphan <> back
11 to this courtroom before 1.30.

12 [11.34.13]

13 I also would like to inform parties that, in the afternoon, we
14 also hear the submission by Counsel, Victor Koppe; it's an oral
15 submission related to the facts about S-21. So after we end the
16 hearing of the testimony from the civil party, we will continue
17 to hear the submission from the Defence Counsel.

18 The Court is now in recess.

19 (Court recesses from 1134H to 1337H)

20 MR. PRESIDENT:

21 Please be seated.

22 The Chamber is now back in session and I would like to give the
23 floor to the defence counsel for Khieu Samphan to continue
24 putting question to the civil party.

25 [13.38.13]

1 BY MS. GUISSÉ:

2 Thank you, Mr. President.

3 Q. Good afternoon, Mr. Sun Vuth. I would like to continue my
4 series of questions on the detention centre where you said you
5 were detained.

6 In answer to a question put to you by the Co-Prosecutor
7 yesterday, you stated that you did not know whether there were
8 other soldiers from Division 920 at that detention centre; did I
9 properly understand your testimony?

10 MR. SUN VUTH:

11 A. Could you please repeat your question?

12 [13.39.04]

13 Q. No problem. Yesterday at about <15.45.16>, you told the
14 International Co-Prosecutor that you were not aware of other
15 soldiers from Division 920 being detained at the detention centre
16 <which you spoke about>; did I properly understand your
17 testimony?

18 A. I did not know about the detainees who were brought there
19 before me. I do not know whether all of the detainees were from
20 Division 920 or they were brought in from other divisions.

21 [13.40.05]

22 Q. You also stated, as regards the description of the building --
23 same time during yesterday's hearings -- you said, "I do not know
24 where the other prisoners came from. They were in detention cells
25 and we were separated by walls such that I was not able to see

1 them."

2 Yesterday -- and this time, it was shortly after 14.03.16 -- you
3 referred to the arrival of two other detainees in the room where
4 you were detained at the detention centre and this is what you
5 stated: "I was alone in it, but two days later, two other
6 detainees arrived in that same room, perhaps because the two
7 other rooms were full." End of quote.

8 So my question to you is as follows: Since you talked of the
9 existence of different cells and rooms, do you know how many
10 rooms there were at the detention centre?

11 A. There are three rooms including the one I was detained. Each
12 room was not big. Each one could contain around five detainees.
13 When I first arrived, there was only me, alone, and then another
14 two people were brought in, so there were, all together, three
15 people in my room.

16 [13.42.00]

17 Q. During the months of your detention -- and I am going by your
18 last version of five months duration -- during the five months
19 you were detained at the centre, apart from the two other
20 detainees, did any other prisoners arrive at that detention
21 centre or there were still only three of you in that room<>?

22 A. There were only three of us in that room.

23 Q. And did those persons stay with you throughout the duration of
24 your detention, up to when you escaped; is that correct?

25 A. Yes, we were <from> the same <village> and we escaped all

1 together; I mean the three of us.

2 [13.43.10]

3 Q. I will return to the issue of your escape shortly, but I would
4 like you to clarify something -- that is, the forms you filled
5 out as part of your civil party application.

6 In answer to a question put to you yesterday by the presiding
7 Judge, you stated that you were interviewed twice; is that
8 correct?

9 A. Yes, the interviews took place twice.

10 Q. We have on record a first document, E3/6760, dated the 8th of
11 December 2009; does that refresh your memory as <to the> time
12 when you filled out that form?

13 A. No, I cannot recall the exact date.

14 Q. Do you remember whether a person called Lap Kuy (phonetic) was
15 present and assisted you in filling out that form?

16 And for the interpreters, Lat Kuy is <L-A-T K-U-Y> <> and that <>
17 name is on the Khmer page of document E3/6760; ERN in Khmer,
18 00565433.

19 Does that name, Lat Kuy, remind you of anything then?

20 A. Lap Kuy -- is it Lap Kuy (phonetic) or Lat Kuy? Is it Lat or
21 Lap?

22 [13.45.45]

23 MR. KONG SAM ONN:

24 Mr. President, the name is Lat Kuy.

25 MR. SUN VUTH:

1 A. Yes, I recall the name of the person Lak Kuy (phonetic). I
2 recall the name of the person Lak Kuy (phonetic), not Lat Kuy.

3 BY MS. GUISSÉ:

4 Q. I crave your indulgence for my poor pronunciation in Khmer.
5 That notwithstanding, <> that <was>, indeed, the person who
6 assisted you in filling out your civil party application<. So,>
7 on the document whose ERN I gave, <there is> his signature as
8 well as your thumbprint, which you appended on all the pages of
9 that form; do you recall appending your thumbprint on that form?

10 A. Yes, I thumb printed.

11 [13.46.55]

12 Q. Did you put your fingerprint on the document after Lat Kuy had
13 read out to you the contents of that form?

14 A. Yes, that is correct, after the person read out to me.

15 Q. I would like to read out to you a passage from that first form
16 of December 2009 which you attest to having filled out with the
17 assistance of Mr. Lat Kuy. In that form, you do not make mention
18 of any period of detention <wherever it may have been>. You
19 talked about various points, but you did not say anything on that
20 issue.

21 This is what you say regarding the period between August 1975 and
22 1979 and the ERN in French is 01219596; ERN in English, 01219593;
23 and ERN in Khmer, 00565431. This is what is stated on that form
24 and I quote:

25 [13.48.37]

1 "In August 1975, we were transferred to Mondolkiri. As for
2 myself, the Khmer Rouge settled me in Chea Beak village, Rum
3 Yoeurl commune, Kaoh Nheaek district, Mondolkiri province. We
4 used bamboo stems to plant them on the border and we set up
5 <crossbows> everywhere to make them function automatically.
6 "Since I <was transferred> there, I did not receive any news of
7 my family<, but they told me <not> to <> worry<> about them<,
8 that they lived in peace, that they could eat to their
9 satisfaction, and that they <were allowed> one dessert a month. I
10 stayed in Mondolkiri up to 1979, the year in which the Khmer
11 Rouge were <> defeated. I then fled into the forest." End of
12 quote.
13 On this first form, you do not at all make mention of your stay
14 at <a> security centre and you do not state that you were a
15 victim of acts of torture. Can you explain why, since it was a
16 form you had to fill in order to participate in the trial, you
17 did not mention that important point if we go by what you have
18 told the Chamber as regards what happened to you between 1975 and
19 1979?
20 [13.50.19]
21 A. Thank you for your question. When I was first interviewed, I
22 did not touch on that issue; only during the later interview that
23 the interviewer asked me about the tortures and interrogations
24 that I told about those aspects. So it was only during the later
25 interviews that I was asked about my suffering, my misery, and

1 because of those questions, it led me to elaborate on the -- on
2 my detention, on my pain as a result of Angkar's arresting me.
3 <Then ADHOC helped me with the civil party application.> And my
4 answers in the later interview, it fit with the civil party
5 application form which focused on the suffering and misery of the
6 victim. <That's how I have become a civil party in this case.>

7 Q. I will return to your second form. I am not done with the
8 first form.

9 You state that <the> reason why you did not mention your stay at
10 the detention centre is because no questions were put to you on
11 the suffering you endured. Yet, in the same form, same document,
12 E3/6760; ERN in French, 01219597; ERN in English, 01219593, and
13 -- and it continues on the next page; ERN in Khmer, 00565432; and
14 on that page titled "Application to be joined as a civil party"
15 part C, and you are asked to <detail the> bodily harm,
16 psychological harm and <material> injury.

17 As regards physical injury you said, "I was subjected to forced
18 labour without enough food. I had no medical treatment in the
19 event of illness."

20 [13.53.13]

21 And at no point in time do you make mention of any harm resulting
22 from torture at the security centre. Neither do you refer to any
23 harm suffered as a result of injuries you sustained at the time.
24 As regards psychological pain, you don't make any reference to
25 harms suffered as regards of torture in a security centre. That

1 does not feature <> either.

2 So my question to you is as follows: <>Why then in your civil
3 party application did you not mention the harms suffered, which
4 was the basis for your application to be joined as a civil party?
5 Why <did not talk> about this stay in the security centre before
6 this Chamber <> the first time?

7 MR. PRESIDENT:

8 Mr. Civil Party, please hold on.

9 [13.54.28]

10 MR. PICH ANG:

11 Good afternoon, Mr. President and Judges. I think the previous
12 question and this question are the same because it's related to
13 the suffering he had when he was detained. And he already said
14 that he forgot to elaborate on that aspect during his first
15 interview.

16 And I would like to inform parties that -- so his <civil party
17 application> was done before the OCIJ determined the scope of the
18 investigation and ADHOC was the one who interviewed the civil
19 party and ADHOC may not be aware of the scope of the
20 investigation.

21 MS. GUISSSE:

22 I would like to make some remarks, Mr. President.

23 Following the remarks or the objection made by my colleague -- I
24 don't know how to characterize them -- first of all, if there are
25 any explanations to be provided, I think it is Mr. Sun Vuth who

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1 is in the witness box who can answer for himself.

2 And to say that it is the same question that has been asked.

3 Again, let me remind my colleague that I have talked about <one>

4 part of a form and now I was talking of another part of the form

5 in which they are dealing with harms, <> in general terms.

6 [13.56.27]

7 To say that we are adapting the account of his history in line

8 with the scope of the trial is not at all the truth. I am asking

9 the civil party to explain to the Chamber his <experience> during

10 <the period of> Democratic Kampuchea.

11 In any case the question is relevant because, in answer to the

12 previous question I put to him, Mr. Sun Vuth said he had no

13 questions put to him regarding any personal injuries <>

14 suffered<, or that it was limited, in any event>. And I was

15 asking him to talk about a part in which <he could have talked>

16 about bodily harm, physical harm and psychological harm<, and

17 material injury> and he doesn't say anything regarding that

18 period of his detention.

19 BY MS. GUISSÉ:

20 Q. So I am again asking, Mr. Sun Vuth, why, at <the> time when

21 <you were> talking of all the different kinds of harm suffered

22 <you> didn't give any <information about> harms suffered during

23 the period of detention <and acts of torture?>

24 [13.57.45]

25 MR. SUN VUTH:

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1 A. As I said that during the later stages of interviews, I
2 elaborated on the harm that I suffered. So as I said, I would
3 like to emphasize that it was during the later stages of
4 interviews that I talked about those aspects of harm.

5 Q. Let us return specifically to your second form, the
6 supplementary information form, dated 21st of June 2010, document
7 E3/6760<a>. And you make mention of a number of facts that you
8 referred to <> the Chamber with a number of contradictions
9 compared to what you have told the Chamber today and what you
10 told the Chamber yesterday. In that document whose ERN in French
11 is as follows: 01213545; ERN in English, 01194793; ERN in Khmer,
12 00586074.

13 [13.59.28]

14 You have stated -- or you stated, still in a document on which
15 you had to put your fingerprint, you stated that you had been
16 sent to a special security centre situated at the foot of the
17 mountain and, on the banks of the Ou Lpov stream. That is what
18 you said in that document on the 21st of June 2010. Yesterday you
19 stated that you must have made an error and that it was not Ou
20 Lpov, but Ou Chbar.

21 So my first question to you is as follows: When did you realize
22 that you had made an error in talking of the Ou Lpov stream?

23 A. Thank you for putting the question. In fact, I confused
24 between Ou Lpov and Ou Chbar. <There is Ou Chbar in Kaoh Nheaek.>

25 And I did not review it and only later on I realized it was a

1 mistake.

2 [14.00.50]

3 Q. Well, exactly when did you understand that there was a
4 mistake? When exactly?

5 A. This matter happened a long time ago. That's why my memory was
6 not that clear and this also should apply when I didn't mention
7 about what happens to me when I was a soldier.

8 And since I was a victim of the regime and later on I knew that
9 such information should be put -- and I did not know whether the
10 information I provided during my interview was accessible to all
11 concerned parties.

12 If I am not a victim, then I would not include such information
13 in the form.

14 As for the victims who were my parents', relatives, and siblings,
15 I had to include those information in order to find justice for
16 them as well.

17 And I did not mean to bring forth further charges for your client
18 but that is the information that I have.

19 [14.02.32]

20 Q. I'm sorry. In this same document at the same ERNs I just
21 mentioned, it is indicated, "At the end of 1977 the Khmer Rouge
22 appointed me to assume the role of chairman of special company
23 920 in Mondolkiri province. <Two weeks after being appointed>,
24 the Chairman of Division <801>, named Saroeun, arrested me." End
25 of quote.

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1 So can you therefore confirm that it was not in '77 but in '75
2 that you were appointed head of a company?

3 A. I was appointed in about early '77 and not immediately after
4 the liberation of Phnom Penh. At that time I was appointed to be
5 chief of a company and that did not happen in 1975 but '77.

6 [14.04.07]

7 Q. So if I understood well, you are telling us a different story
8 compared to what you were even telling us this morning before the
9 Chamber.

10 So we are no longer talking about '75. Am I correct?

11 A. I was appointed chief of a company in 1977. I cannot recall
12 exactly as to which month of 1977. It could be early or it could
13 be mid-'77. And in fact I declined to be chief of a company
14 because I said that I was rather young.

15 [14.04.55]

16 Q. Well, I must confess, Sun Vuth, that I am rather confused
17 because this morning you described at length your role as a
18 company chief at the border saying that it was Ta Chhin who had
19 appointed you to that position. So if this was at the beginning
20 of '77, this means it happened at the same time of his arrest.
21 And if it's later at the end of 1977, this means that this
22 happened after his arrest and basically at the same moment as
23 your arrest.

24 So I am a little bit confused by what you are telling us now. So
25 can you somehow clarify this to the Chamber?

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1 A. As I have stated, it did not happen in 1976 but it was
2 probably around mid-1977. And I was chief of a company only for
3 about three months. And I didn't have a clear management of that
4 company yet although I was promoted to be head of that company.
5 And I cannot recall exactly the exact month that it happened
6 because I was rather young. And indeed, later on I was arrested.
7 And that is the truth, although my recollection of the month
8 might not be that well indicated.

9 [14.06.49]

10 Q. <So can you please tell us which version is accurate: were you
11 or were you not company chief? And, yes or no, was it two weeks
12 after your appointment that you were arrested or was it three
13 months, as you have just indicated?>

14 A. It might happen a month or two after my appointment.

15 JUDGE FENZ:

16 Your question wasn't translated. At least I didn't hear it. The
17 answer was.

18 BY MS. GUISSÉ:

19 Yes, I believe there were some problems with the <interpretation>
20 of my question.

21 Q. So the question that Sun Vuth answered was whether, yes or no,
22 he had been appointed company chief and did this happen three
23 months or two weeks after -- was he arrested two weeks or three
24 months after he was appointed?

25 And here I understood from his answer that <it> was one or two

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1 months<>. So please correct me if I am wrong.

2 [14.08.23]

3 Now, you are telling me that you were arrested one or two months
4 after you were appointed as a company chief. Is that the case?

5 MR. SUN VUTH:

6 A. <Mr. President -->

7 Q. Well, who appointed you to be company chief?

8 MR. PRESIDENT:

9 Civil Party, please observe the microphone.

10 MR. SUN VUTH:

11 A. It was Soy from the division.

12 [14.09.02]

13 BY MS. GUISSÉ:

14 Q. Of which division?

15 MR. SUN VUTH:

16 A. The former Division 920. Soy was the deputy of Ta Chhin.

17 Q. So, apparently when you were appointed, <he> had not yet been
18 arrested. Am I correct?

19 A. Yes, he had not yet been arrested when my appointment was
20 made.

21 Q. Are you sure that this happened that you were arrested one or
22 two months after you were appointed? Are you sure of that?

23 I'm putting that question to you because yesterday when you were
24 answering a question that was put to you by the Co-Prosecutor
25 about the date of your arrest, the Co-Prosecutor read out to you

1 documents in which it is stated that Ta Chhin apparently was
2 arrested with other members of Division 920 around February or
3 March 1977. And it is you <yourself> who said that you apparently
4 were arrested around November/December 1977 since this was during
5 the harvest season.

6 So what is the true story, Mr. Sun Vuth?

7 A. As I said, it was in December and I'm pretty certain that that
8 was the month since it was harvest season. It was either November
9 or December.

10 [14.11.20]

11 Q. But the problem is that if this happened in November or
12 December and now you tell us that you were arrested one or two
13 months after you were appointed to be a company chief, this means
14 that it was impossible for you to have been appointed by Ta San
15 or by Ta Chhin because they had already been arrested.

16 A. What I said is the truth, although I may not remember well
17 about the date or the year. And I apologize for that.

18 Q. Let me move on to another topic. You said that when you
19 arrived at the detention centre which was made up of three rooms
20 including the room where you were detained, you said that <your
21 feet> were shackled. And I understood that the shackles were made
22 out of wood. Is that correct?

23 A. Yes, it was a wooden shackle and it was framed with metal. And
24 my ankles would be inserted through a hole on that wooden
25 shackle.

1 [14.13.18]

2 Q. You said yesterday a little bit after 2.06 that one week
3 later, one week after you had arrived at the detention centre,
4 they only shackled one of your ankles and one arm. So did they
5 use a wooden shackle for that or did they use any other kind --
6 another kind of shackle?

7 A. It was a wooden shackle and they -- actually, my hand was also
8 shackled with a wooden shackle and also it was a wooden shackle
9 that my ankle was put in.

10 MR. PRESIDENT:

11 The question is whether the same shackles were used when you were
12 shackled only up to one arm and one ankle or whether a different
13 type of a shackle was used.

14 MR. SUN VUTH:

15 A. It was the same shackle. There was no other shackle. The same
16 shackle was used for me.

17 [14.14.54]

18 BY MS. GUISSÉ:

19 Q. And you confirmed earlier that there were two other people
20 with you in this room where you were detained. And these people
21 were shackled in the same manner as you.
22 And if I understood well, the door of that room was also locked.
23 Is that the case?

24 MR. SUN VUTH:

25 A. Yes.

1 Q. However, you said that you managed to escape. So how, how were
2 you able to free yourselves from your wooden shackles and from
3 your shackles around your arms? How were you able to kick the
4 door down in the room where you were locked up?

5 A. I did not know how it happened but I managed to free myself
6 from the shackles. And as I said, in the previous night, I
7 dreamed that my parents told me to flee from the prison.
8 Otherwise, I would be killed.

9 Maybe it's kind of a superstition but <I was able to shake>
10 myself <> free from the shackles. And if I didn't have such a
11 dream, maybe I would not be able to free myself from the
12 shackles.

13 [14.16.49]

14 Q. And how did you manage to kick the door down, the door which
15 was locked?

16 A. Since I had to leave, I could manage to open the door.
17 And not only I who escaped, I managed to bring along the other
18 two inmates from the same room. Although I didn't know that they
19 would be subject to be killed at any time, but myself, through
20 what I knew that they would kill me, so I had to flee.

21 Q. You did not answer my question, which is: How did you manage
22 to open the door as it was locked?

23 A. I already responded to your question. I had a metal bar and I
24 pried open the door. Maybe I was helped by certain spirits.

25 [14.18.15]

1 Q. But didn't it make noise when you used that metal bar? Where
2 did you <get> it<, incidentally>?

3 A. If it made noise, then I would not be able to escape but it
4 didn't make noise. That's why I could escape. There was a hut
5 which was about 10 metres from where I was detained and that was
6 the sleeping quarters of the guards and I didn't wake them up
7 when I pried open the door and fled.

8 Q. This will be my last question because I am aware that I am
9 running out of time.

10 So do you remember the names of these guards?

11 A. Yes, it was comrade Peng and comrade Bai. Bai and Peng <were>
12 the ones who <tortured> me <> during the interrogation.

13 Q. And I believe I understood that they were part of Division
14 920. Were they Khmer or were they of one of the ethnic
15 minorities?

16 A. They were Khmer, not another ethnicity. They were pure Khmer.

17 [14.20.15]

18 MS. GUISSÉ:

19 Mr. President, I have of course many other questions to put but,
20 I believe, that I no longer have the time for that so I will stop
21 here.

22 MR. PRESIDENT:

23 Thank you, Counsel.

24 And Mr. Sun Vuth, as a civil party you may make a victim's impact
25 statement, if any, concerning the crimes which are alleged

1 against the two accused -- that is, Nuon Chea and Khieu Samphan,
2 and harms inflicted upon you during the Democratic Kampuchea
3 regime from 17 April 1975 to 6 January 1979 resulting in your
4 civil party application to claim collective and moral reparations
5 for physical, material or mental injuries as direct consequences
6 of these crimes.

7 If you intend to do so, you may proceed.

8 [14.21.25]

9 MR. SUN VUTH:

10 Mr. President, I have two points that I would like to put to the
11 Accused through you, Mr. President.

12 I was instructed to be a soldier to serve the nation and later on
13 I was arrested and I felt so <hurt> for that <and I have resented
14 that>. I served the nation <for years> and why was -- why I was
15 arrested and accused of betraying Angkar?

16 I sacrificed my life for the motherland and for the Party. And I
17 would like the Accused to give me explanation. Why did that
18 happen?

19 And also, my parents were killed along with some of my siblings
20 and relatives. My father did not do anything wrong although he
21 was a deputy -- a first deputy commune chief during the previous
22 regime.

23 And in 1975 while I was in <Mondolkiri> to serve in the army, I
24 was not with my <parents>. And I -- at that early stage, I did
25 not know about the fate of my parents since I focused myself on

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1 serving the nation and the Party. And later on I learned of their
2 fate that they had been killed. And that was painful to learn.

3 [14.23.21]

4 And I would like to have explanations from the Accused on the
5 reasons for their deaths.

6 I don't want to accuse them but I want to know the real truth.

7 Why innocent people, like my parents who did nothing wrong, were
8 killed?

9 And I want responses from the Accused, of course through you, Mr.
10 President, so that I may feel relief.

11 MR. PRESIDENT:

12 Thank you, Mr. Sun Vuth.

13 The Chamber would like to inform you that pursuant to Internal
14 Rule 21.1(d) of the ECCC, which states that at all stages of the
15 proceedings, the Chamber shall inform you or shall inform you of
16 the right of the accused to remain silent.

17 And on the 8th of January 2015, in response to the question of
18 the Chamber, the Co-Accused reaffirmed their position <> to
19 exercise their right to remain silent.

20 [14.24.41]

21 Also, during that hearing, the Chamber noted that the Co-Accused
22 maintained their position to remain silent unless and until such
23 time the Chamber is informed otherwise by the Co-Accused or their
24 counsel.

25 The Chamber instructed the Co-Accused and/or their counsels to

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1 inform the Chamber in a timely and efficient manner should the
2 Accused resolve to waive their right to remain silent and be
3 willing to respond to questions by the Bench or relevant parties
4 at any stage of the proceedings.

5 As of today, the Chamber is not informed that the Co-Accused have
6 changed their position and, thus, agree to provide their
7 responses to questions.

8 Therefore, according to the national and international law, the
9 Chamber cannot compel the Accused to respond to the questions as
10 long as they do not agree to it, while exercising their right to
11 remain silent.

12 [14.25.54]

13 And the Chamber would like to thank you, Mr. Sun Vuth.

14 And the hearing of your testimony, as well as your impact
15 statement as a civil party -- that is, in regarding the harms
16 that you claim you suffered during the Democratic Kampuchea, is
17 now concluded. It may contribute to the ascertainment of <the
18 truth in> this case. Your presence is no longer required and you
19 may return to your residence or wherever you wish to return to.

20 The Chamber wishes you all the very best.

21 Court officer, in collaboration with WESU, please make transport
22 arrangements for civil party Sun Vuth to return to his residence
23 or wherever he wishes to go.

24 You may be excused.

25 (Short pause)

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

1 [14.27.06]

2 MR. PRESIDENT:

3 Now the Chamber wishes to hear the oral submission by the defence
4 team for Nuon Chea in relation to the scheduling to hear
5 witnesses in relation to S-21 Security Centre which <is>
6 scheduled to be heard after the Khmer New Year.

7 Yesterday, after being informed of the delay of the proceedings
8 on S-21 Security Centre per request of Nuon Chea defence that it
9 shall be conducted after the Khmer New Year, today, the Nuon
10 Chea's defence informed the Chamber as well as the parties
11 through their senior legal consultant email that they wished to
12 make an oral response regarding the proceedings related to S-21
13 Security Centre and they highlighted their concern, the duration
14 and the sequence of putting questions to 2-TCW-916, as well as
15 the disclosure of documents from other cases into the topic of
16 S-21, as well as the internal purges as they need to review those
17 disclosure documents. And in order for the Chamber to have a
18 basis for our deliberation, I would like to hand the floor first
19 to the defence team for Nuon Chea to provide their grounds for
20 their submission before we hear responses from other parties.
21 And you may proceed, counsel.

22 [14.29.09]

23 MR. KOPPE:

24 Thank you, Mr. President. Yes, we would like to make brief
25 submissions on a few issues. First of all, two submissions on

1 witness 2-TCW-916.

2 The first point is that we believe that the now planned four days
3 of testimony for this witness are manifestly insufficient. He is
4 one of the most important witnesses in Case 002/02. The Chamber
5 is aware that there are about 4,000 pages of statements and
6 transcripts on the case file. He testified across 21 hearing days
7 in Case 001; testified another 13 days in Case 002/01.

8 I would like to refer the Chamber to the ruling of the Supreme
9 Court Chamber saying that there is -- it ruled that there is no
10 commonality among findings in each sub-case severed from Case
11 002, and that -- I quote: "Common factual elements in all cases
12 resulting from Case 002 must be established anew."

13 [14.30.43]

14 And this also goes for findings from the Case 001 Judgement from
15 the Chamber itself. That is E301/9/1/1/3 and that's the decision
16 on Khieu Samphan's immediate appeal in the severance issue, the
17 matter of the severance.

18 We requested in our original Witness List to question 2-TCW-916
19 for 60 hours or around 13 days. We believe that that is not an
20 unusual length, but going by the standards of the Chamber and the
21 usual questioning lengths allocated, we submit that we need to
22 cross-examine 2-TCW-916 for a minimum of four days, that is a
23 full hearing week, to at least minimally address all the matters
24 that we would like to discuss with him. That's point one that we
25 would like to raise in relation to this witness.

1 [14.32.01]

2 The second is a request for clarification in -- on the order of
3 questioning of this witness. We note that he has been requested
4 not only by us but also by the Co-Prosecutors. Of course, we
5 understand that it is the Chamber's prerogative to determine the
6 order of questioning.

7 For instance, you've told us this in relation to a witness
8 Richard Dudman.

9 However, for planning purposes, it would be very helpful to know
10 as soon as possible whether we will be planning cross-examination
11 of this witness or examination in-chief. Our preference is
12 cross-examination but we're in your hands, but nevertheless we
13 would like to have clarification as soon as possible.

14 The other point relates to the evidence for Security Centre S-21
15 in general. In our email we've asked, and we'll repeat that, we
16 are asking -- or requesting the Chamber to seek clarification on
17 whether all pertinent new evidence created by the International
18 Co-Investigating Judge for Cases 003 and 004 have been disclosed
19 to us and, if not, when that will be.

20 [14.33.55]

21 That was triggered -- or these remarks, these submissions are
22 triggered actually by two things. In a very recent new interview
23 of witness 2-TCW-916, he seemed a bit agitated when responding to
24 questions. It seemed if we understood the interview, the WRI,
25 correctly, that he was shown all kinds of new S-21 documents.

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1 It's not entirely clear whether that is correct, but hopefully
2 the Prosecution will be able to shed some light on this. But it
3 seemed that new evidence might have been discovered in Cases 003
4 or 004 in relation to S-21.

5 [14.34.53]

6 And the second point that triggered this request or this issue is
7 the submission yesterday at the very end of this International
8 Co-Prosecutor in relation to the list of prisoners of Division
9 920 which was shown to the civil party this morning.

10 It is a release list, a list of release of prisoners, however, if
11 I understood submissions from the Prosecution yesterday
12 correctly, he seemed to suggest that there is new evidence,
13 possibly from Cases 003 and 004, which might refute the fact that
14 these prisoners, these 100 prisoners were, in fact, released.
15 So that, just to summarize, was -- these two things were the --
16 was the trigger to come up with these submissions.

17 [14.35.56]

18 If there is, indeed, new evidence in relation to S-21, we request
19 that all -- that relevant new information be disclosed to us
20 prior to commencing oral testimony on both S-21 Security Centre
21 and the segment of internal purges. And if that evidence is
22 indeed there, that new evidence, we request that the Chamber
23 grant us a recess period upon the release of any such new
24 material so that we have an opportunity to adequately review that
25 new - potential new evidence.

1 [14.36.47]

2 Yesterday, in your decision, indeed, you have given us a little
3 bit of extra time to prepare for S-21, two days, but it seems
4 that those two days that you granted to the parties also was
5 relevant to the new disclosures that we received; hundreds of new
6 pages with potentially exculpatory material.

7 So although we are indeed grateful for that extra period that
8 we're getting and that we don't start with S-21 before Khmer New
9 Year, we would submit, especially in the light if there is indeed
10 new evidence, that it might be a bit meagre and that we might
11 need more time, Mr. President, to be able to fully prepare.

12 And, again, we are not complaining about resources. As I
13 indicated last week that seems to be fine now, but still has to
14 be processed and ultimately, of course, and by the counsel who
15 asks the questions.

16 So that is, in brief, the submissions that we are making in
17 relation to this potentially new S-21 evidence and in relation to
18 the witness 2-TCW-916 of whom I -- by the way -- asked whether we
19 should keep calling him 2-TCW-916. It's a bit overly cautious I
20 would argue, but I leave that in your hands.

21 [14.38.42]

22 MR. PRESIDENT:

23 Thank you.

24 And now the Chamber gives the floor to Defence Counsel for Mr.

25 Khieu Samphan to make observations and submissions related to the

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1 request by Mr. Koppe. You may now proceed.

2 MS. GUISSÉ:

3 Thank you, Mr. President. I think this is the essential point in
4 my response; it has to do with the issue of time allotted for the
5 appearance of 2-TCW-916. I must say that it is obvious that the
6 four days allotted to us by the Chamber are particularly short.

7 [14.39.35]

8 I say so all the more so forcefully because we've seen it
9 recently with the expert who came to testify before the Chamber
10 that when we have documents to disclose and in the three
11 languages to enable the parties to react <with the documents
12 before them>, it takes time. And that in itself, bearing in mind
13 the <mass> of documents on S-21 and internal statements by
14 2-TCW-916, even if we were to sort out the documents drastically,
15 I do not see how in four days all the parties and the Chamber
16 will be able to examine and cross-examine that witness. It is,
17 indeed, impossible as far as I'm concerned, so we strongly
18 endorse the Nuon Chea team's application as far as the time
19 factor is concerned.

20 Now, regarding any disclosures that may be required --

21 JUDGE FENZ:

22 Nuon Chea says four days; what's your request? The standing four
23 days for Nuon Chea team obviously - or was that for both teams,
24 no?

25 [14.41.05]

1 MS. GUISSÉ:

2 I believe that my colleague's request concerned only him. The
3 four days are only for the Nuon Chea team and not for both
4 defence teams. I support his application based on the fact that
5 -- of course, we'll need fewer days than the Nuon Chea team given
6 the subject.

7 But we, the Khieu Samphan defence, will need at least two days.
8 That would be reasonable in view of the <mass of> documents that
9 will have to be considered. It is shorter than the one my
10 colleague is asking for, but two days for us is a minimum.
11 And as regards the disclosure of documents, we'll have to apply
12 decision E363/3 of the Chamber.<>

13 MR. PRESIDENT:

14 Next, the Chamber gives the floor to the Prosecution to make
15 response to the request made by the defence counsel for Nuon
16 Chea.

17 [14.42.20]

18 MR. LYSAK:

19 I thank you, Mr. President. Good afternoon, Your Honours. Let me
20 deal with the issues in order.

21 First, with regard to 2-TCW-916, I tend to agree with my
22 colleague here. We could well be referring to him by his name,
23 but I -- nonetheless.

24 In principle, I don't think we have any opposition to having some
25 more additional time. I disagree with the assertion that you have

1 to start anew with this witness. That's not the holding of the
2 Supreme Court, that you have to re-decide, decide anew on
3 findings and that. You don't have to start from scratch and hear
4 evidence anew.

5 This is a person who has obviously given a lot of testimony that
6 is already there. So I'm not sure that we need to have 12 days
7 total, six for the Prosecution, which I think is about the same
8 time as was used in the last -- the 002/01 trial. I believe he
9 testified about 12 days in total. It might be -- I think we could
10 do it shorter than that, but we wouldn't have any objection to
11 doubling the current time, for example.

12 [14.43.63]

13 In terms of the order, we are proceeding on the assumption that
14 we would go first, so I have no problem with the Co-Prosecutors
15 taking the lead as usual with this witness.

16 I would also note that in terms of the length of time of
17 testimony, this witness is older than he was. More importantly,
18 the last few years may have been more difficult a living
19 situation for him.

20 So it may not be that we can do full days; we'll have to see. So
21 one of the consequences if additional time is granted is that
22 there may need to be half days; it may need to be broken up. So
23 the principle of keeping him until the very end may have to be
24 sacrificed too. We may have to hear other witnesses in the
25 afternoon or -- so that -- those are obviously logistics for the

1 Court to work out.

2 But, in principle, we don't have opposition to the notion that
3 some additional time for this obviously very important witness.

4 [14.45.12]

5 On the other point, I always stay very measured in this Court and
6 I will again today, but I am never surprised by the arguments
7 that are made in this courtroom from the other side.

8 It was not very long ago in this courtroom that the Defence were
9 complaining about the volume of material being disclosed from
10 Cases 003 and 004. The word "tsunami" was regularly used by Mr.
11 Koppe. They may be the first defence counsel in the history of
12 law who complained that the Co-Prosecutors were over-disclosing
13 but, nonetheless, they did.

14 [14.46.04]

15 We had been disclosing anything that was relevant. As a result of
16 the Defence complaints, Your Honours issued an order -- E363/3 --
17 that we were to disclose exculpatory evidence. Since that order,
18 that is what we've been doing. So we no longer automatically
19 disclose anything and everything that is pertinent or relevant.
20 We disclose in compliance with, Your Honours, and we have done
21 so, and continue to do so.

22 [14.46.40]

23 I remind the Defence, these are ongoing investigations. We cannot
24 wait until all these investigations are done before we start the
25 S-21 and internal purges phase.

1 So the first answer is that there isn't new evidence that we are
2 sitting on. We have disclosed in accordance with your Court's
3 ruling. If the Defence are changing their tune and saying they
4 want to go back to disclosing all relevant evidence, I think
5 that's a problem.

6 But, rest assured, we are in compliance with our discovery
7 obligations and will continue to do so. We will continue to be
8 disclosing material throughout these proceedings.

9 The two specific examples or issues raised by counsel: The
10 February 2016 interview of 2-TCW-916. I'm not sure counsel has
11 even read it by the way he described it.

12 [14.47.59]

13 All -- the only thing that was being referred to in the question
14 and answers 30 to 31 -- this is document E319/42.3.3 question and
15 answers 30 to 31 -- apparently OCIJ has taken our master OCP
16 revised S-21 prisoner list and simply created some sub-lists from
17 that that are pertinent to the units or people being investigated
18 there.

19 And if you actually read this interview before getting up in
20 Court and complaining, you would see that. There are not -- there
21 is not new, dramatic S-21 evidence.

22 The second, and I think something that I do; I think this is a
23 good moment to explain what I meant yesterday.

24 Yesterday, a document that received some attention in the press a
25 few years ago, a list that purports to be a hundred Division 920

1 soldiers being released, that document came up in the proceedings
2 yesterday.

3 There is no new evidence on that, first of all. Let me be very
4 clear about that. There's no new evidence from Case 003 or Case
5 004. There is old evidence which has been on the case file for
6 many years going back to the investigation 2007 through 2009.
7 There are a couple of additional documents we found after this --
8 the story broke about this new list which we included in our
9 trial document list filed almost two years ago.

10 [14.50.06]

11 So if you look at, for example, at -- when we filed trial lists
12 back in June 2014, we broke them down into annexes as we always
13 do. Annex C2, which is E305/13.23, if you look at the very first
14 document on that list, number 1 on that list, is some DC-Cam
15 field reports that were done, where they looked into this issue
16 of prisoners who had supposedly been released from S-21. And what
17 they found -- and this was specifically in relation to something
18 Your Honours have dealt with before -- there are a few early
19 confessions from S-21, from the early days of S-21, where there's
20 some annotations saying "Release". This is actually from before
21 Duch had taken over.

22 [14.51.11]

23 And in these field reports, DC-Cam had followed up to see if they
24 could find some of these people and had actually found two of
25 them. And what they found was that, in fact, these people had not

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1 been released, they had been transferred from S-21 to the 703
2 prison at Ta Khmau and then from Ta Khmau to Prey Sar and had
3 managed to escape.

4 So that -- when I was referring yesterday to their being a lot of
5 evidence about the issue of releases, I was not talking about new
6 evidence. Talking about evidence that has been available to the
7 Defence for many, many years; many years.

8 Specifically on the Division 920 list, that is actually something
9 that I looked into myself because I found it odd. So one day at
10 home, on my own computer, with the -- and I only have a small
11 sampling of the S-21 list but I have S-21 lists that have been
12 translated into English -- I started looking after the date of
13 this release and by myself on my computer at home with my six
14 year-old on top of me, I managed to find references to almost 20
15 of those people later coming back to S-21.

16 [14.52.30]

17 And let me give you the specifics since we're here and we want to
18 be up front about all this. So the list of the 100 prisoners
19 supposedly released is document E3/8648. I'll give you the three
20 documents I found in which I found references to those same
21 people, subsequent references.

22 [14.53.20]

23 The first is E3/2181. It is a list of three people who re-entered
24 S-21 on 23 January 1978, so about two months after the release
25 document. And they're described as coming back through Brother

1 Huy Sre, Section 21-D which, of course, is Prey Sar. So, again,
2 consistent with what DC-Cam found when it had investigated these
3 other releases and found they were, in fact, people who had been
4 transferred to Takhmau or Prey Sar, the first group I found were,
5 indeed, showed that these Division 920 soldiers had not been
6 released, they had been sent to Prey Sar. Two months later, these
7 three come back, are sent back, from Prey Sar to S-21.
8 Second, E3/1668, another two people. Again, prisoners coming from
9 21 corps, referring to Prey Sar, who had re-entered S-21 on 12
10 December 1977; so about a month later.
11 And then the biggest list I found, document E3/8460. It's a list
12 of prisoners from, again, from S-21D from 10 February 1978 and I
13 count 10 names, additional names, I found of these people who
14 were on this release list.
15 [14.55.22]
16 So that's why I said yesterday that these prisoners, in fact, had
17 not been released. They had been transferred to Prey Sar.
18 So I hope that clears up this issue. There is absolutely no
19 reason for there to be any delays in terms of re-starting --
20 starting S-21. Even the new interviews from 2-TCW-916 that were
21 disclosed a few weeks ago are not ground-breaking. There's, from
22 my review, nothing new in there, which is not completely
23 surprising given how much this individual has testified. So I
24 hope that is responsive to the Defence issues, and I'm happy to
25 answer any questions Your Honours have.

1 MR. PRESIDENT:

2 The Chamber now hands the floor to the Lead Co-Lawyers for civil
3 parties to give response to the request made by Nuon Chea defence
4 team. And your response also should be directed to the request by
5 Khieu Samphan defence team.

6 [14.57.00]

7 MS. GUIRAUD:

8 Thank you, Mr. President. I'll be very, very brief.

9 No objection to granting extra time for witness 2-TCW-916, and
10 also regarding the exact amount of time that should be granted to
11 each one of the parties, we rely on your wisdom.

12 We have no further observations to make at this point, Mr.
13 President. Thank you.

14 MR. PRESIDENT:

15 Thank you. Last, the Chamber gives the floor to the defence
16 counsel for Nuon Chea to respond to the submissions and
17 observations by the <Co-Prosecutors>. You may now proceed.

18 MR. KOPPE:

19 Thank you, Mr. President. Very briefly, it is certainly not our
20 intention to question everything that was established in the Case
21 001 judgement. Obviously, there are quite a few issues which we
22 are ready to accept, so it's not every point of evidence that we
23 are going to challenge here again. That would be quite pointless
24 and fruitless. So that has to be clear first of all.

25 [14.58.26]

1 Obviously, we also have no problems if, because of the health of
2 this witness, we need to have half days. That is obviously in the
3 hands of the Chamber so that's not a problem for us.

4 I'm not entirely sure if I understood the Prosecution's surprise
5 as to our submissions. We were just wondering whether there is
6 any new evidence in relation to S-21 assembled in Cases 003 and
7 004, and if there is any such new evidence, obviously, we would
8 like to have it and I'm sure the Chamber would like to have it
9 too.

10 But it -- now I understand -- and it wasn't clear, to be
11 completely honest, from the interview with this witness whether
12 there was, indeed, new evidence, yes or no. Otherwise there's no
13 reason -- or it is difficult to understand why this witness
14 became so agitated when he saw that.

15 But I'm happy to accept the submissions from the Prosecution. If
16 there's no new evidence, the happier we are.

17 [14.59.45]

18 So having said that, then, of course, there's no need to ask for
19 a delay if we don't have to study any new potential documents,
20 potential evidence.

21 And then the last issue, well, obviously this is not a time to
22 start pleading or to making arguments, but I do like to point out
23 to the Chamber is that this issue with the release of 100
24 prisoners started with the Nuon Chea defence having access to a
25 publication of DC-Cam, January 2011, in which, apparently, it had

1 analyzed that particular document and had concluded that these
2 100 prisoners were, in fact, released. That DC-Cam document has
3 now also an E3 number. It is E3/7326.
4 [15.00.45]
5 I'm very happy to hear that the prosecutor -- Prosecution in its
6 spare time has done some research but, as of now, I'd be more
7 inclined to rely on the findings of DC-Cam of which I am certain
8 that there are people who are in a position to read Khmer and who
9 can make more adequate comparisons with names than the
10 Prosecution from an English translation list.
11 So the fact remains that I have never -- I've not, up until
12 today, seen any retracting from DC-Cam saying that these
13 prisoners were just temporarily sent to Prey Sar and then sent
14 back. And if I hear the counting of the Prosecution, there are
15 certainly at least a number of 80 prisoners that he couldn't
16 account for. And maybe the prisoners that were sent back from
17 Prey Sar to S-21 were, again, accused of something. That is
18 something that we don't know. Maybe 2-TCW-916 will be able to
19 shed light on this issue.
20 So saying that we make something up with -- in relation to these
21 100 prisoners is -- that's a very early conclusion.
22 So, having said that, following the Prosecution there seems to be
23 no reason to postpone hearing evidence because apparently there
24 is no new evidence assembled in Cases 003 and 004 and I'm very
25 happy to hear that.

1 [15.02.34]

2 MR. LYSAK:

3 Mr. President, just one brief point. I just want to make sure the
4 record is very clear on this. The document -- what counsel's
5 referring to is not even a -- it's a brochure that was issued by
6 DC-Cam. All it does is list the people from that list of 100. No
7 effort was made to do -- to follow-up and see whether they
8 appeared again.

9 The other document, the one that I mentioned where DC-Cam did do
10 some research, that is E3/8778, where DC-Cam did do some research
11 on the previous lists, they found exactly what I found which was
12 these people had not been released, they had, in fact, gone to
13 Prey Sar and they found evidence in -- of people being returned
14 to S-21.

15 But it should be clear, DC-Cam did not do this field research --
16 do field research with respect to the 100 Division 920 soldiers.
17 All they did was publish the list.

18 [15.03.48]

19 MR. PRESIDENT:

20 Judge Lavergne, you have the floor.

21 JUDGE LAVERGNE:

22 Yes, just a point of clarification. Are both of these DC-Cam
23 publications on the case file? I understand the last one, of
24 course, is on the case file because there's an E3 number. What
25 about the first one you were referring to<>?

1 MR. LYSAK:

2 I'm sorry, Judge, can you -- I'm not sure. When you refer to two,
3 two publications?

4 JUDGE LAVERGNE:

5 Yes, it -- apparently, you spoke about a first publication
6 regarding the list of the 100 people who were released, and you
7 said it's only a list but, however, something was published.
8 So <if> it <is> an article<,> is it on the case file or is this a
9 document that's not on the case file?

10 [15.04.51]

11 MR. LYSAK:

12 Okay. So the -- there's the DC-Cam field reports which is what I
13 was talking about where they had done some field research to try
14 to find people in the earlier documents regarding releases. That
15 is E3/8778. Then there's the document that Defence Counsel is
16 referring to which is a brochure that was published by DC-Cam in
17 which there are a list of the 100 plus the other known survivors
18 from S-21. I don't have the E3 number but it's -- Defence Counsel
19 put that on and I believe it is -- has been admitted but I don't
20 have the E3 number for that publication.

21 MR. KOPPE:

22 I just gave that to be helpful. It's E3/7326.

23 MR. PRESIDENT:

24 The Chamber would like to thank all parties for their submissions
25 and responses to the oral submissions by the defence team for

1 Nuon Chea and Khieu Samphan.

2 [15.06.20]

3 The Chamber will use it as a basis for our decision to the
4 request made by Counsel Koppe for Nuon Chea's defence. We have --
5 and that request was also supported by the defence team for Khieu
6 Samphan.

7 The Chamber will adjourn the proceedings now and we'll resume on
8 4 April 2016 -- that is, Monday, starting from 9 o'clock in the
9 morning. On that day, the Chamber will hear testimony of a
10 witness -- that is, 2-TCW-827, on the treatment of the Cham
11 people. This information is for the parties and the general
12 public.

13 Security personnel, you are instructed to take Nuon Chea and
14 Khieu Samphan to the detention facility and have them returned to
15 attend the proceedings on Monday, 4 April 2016, before 9 o'clock
16 in the morning.

17 The hearing is now adjourned.

18 (Court adjourns at 1507H)

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