



Nuon Chea's Former Bodyguard Testifies for the Prosecution

By: Heather N. Goldsmith, J.D.

On Thursday, April 19, 2012, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) continued trial proceedings in Case 002 against accused Nuon Chea, Ieng Sary, and Khieu Samphan. As planned, the day was devoted to the examination of the prosecution's witness, Saut Toeung, who served as Nuon Chea's bodyguard and messenger during the Khmer Rouge regime. The testimony was comprised mostly of confusion and contradictions, leading the defense to conclude that little time would be needed to impeach the witness.

Details of the Trip to China and North Korea

After the Chamber President Nil Nonn opened the session, international assistant prosecutor Dale Lysak began the day by asking Saut Toeung, still represented by the duty lawyer appointed yesterday, whether Nuon Chea made any speeches while in China, including at banquets. Saut Toeung responded that he did not remember because he was sitting far from Nuon Chea's table. Mr. Lysak then tried to refresh his memory, but Michael Karnavas, international co-counsel for Ieng Sary, objected that "a document cannot be used to refresh a memory that does not exist."

Mr. Lysak responded that he did not understand the objection, asserting that the witness may have forgotten something that happened thirty years prior. He stated that the article he wanted to use to refresh the witness's testimony was a newspaper article regarding a speech given by Nuon Chea at one of the banquets in China. The President did not sustain the objection, and the witness

was shown the document. Mr. Lysak then read parts of the article to the witness and asked whether it refreshed his memory. The witness insisted that he did not remember the speech.

Mr. Lysak provided the witness with his prior statement made before the Co-Investigating Judges, where Saut Toeung had responded to a question about the banquet, “I only know that during a period he talked about economic activities.” In response, the witness explained that he was not interested in economic activities, but he thought that the visit was about Nuon Chea’s work. The witness was again asked if he recalled if Nuon Chea had any meetings with Chinese leaders, and he replied that Nuon Chea did have meetings but the witness did not remember the people.

The questions next turned to the North Korean section of the trip. The witness testified that he remembered that they were received by people when they landed and they then went to the countryside. The witness was asked how the living conditions and food in North Korea compared to that in Democratic Kampuchea (DK).

Mr. Karnavas objected because he forecasted that the prosecution would be asking for time later in the day and thought this question was not relevant. Mr. Lysak responded that he would not be asking for additional time and thought it was reasonable to ask this one question because the witness is in a unique position to compare the conditions in the two countries. The President overruled the objection.

After the question was repeated, the witness responded that the food and meals in North Korea and China were not the same as in DK. The prosecutor asked for more detail, and Saut Toeung said that he could not talk about the food in North Korea, but he noted that in China the food was different from Cambodia, mentioning specifically the absence of “sour soup and hot pot soup” in China. He said he does not know what Korean soup was like. Mr. Lysak then asked for information about the amount of food that was available.

Andrew Ianuzzi, legal consultant for the Nuon Chea team, commented that this testimony was making him “hungry for some Kimchi” and objected that the witness was clearly being led. Mr. Lysak asserted that there was nothing suggestive in the question. Mr. Karnavas also registered his objections that determining whether the North Koreans or Chinese were good hosts did not help with understanding what happened in DK. He admitted it could be helpful if the witness had gone into the villages and saw how people lived and ate but noted that foundation for this testimony had not been laid. Kong Sam Onn, co-lawyer for Khieu Samphan, added that he agreed that the question was not relevant because it does not reflect what life was really like for the people in China and North Korea. The President sustained the objection and advised Mr. Lysak to rephrase the question in order to remain within the scope of the current hearing.

Moving on, Saut Toeung was asked if he recalled Nuon Chea meeting with any of the Chinese leaders, but the witness said that he did not. Mr. Lysak concluded his questions about the trip by asking if the witness remembered the day that the delegation returned to Cambodia, but the witness responded that he only remembered that it was immediately after one week in China and one week in North Korea. Mr. Lysak attempted to refresh the witness’s memory through a report from the *Phnom Penh Domestic Services*, which said that the delegation returned to Phnom Penh

from Peking by plane on September 16, 1978. The witness continued to assert that he did not remember the date well. Mr. Lysak summarized that two reports showed that the delegation left on September 2, 1978 and returned two weeks later on September 16, 1978. The witness concurred that the duration of the trip was consistent with his memory.

Position and Responsibilities of Saut Toeung

Saut Toeung was next questioned about his specific responsibilities in the Khmer Rouge Regime. He first testified that he never delivered nor picked up documents from Nuon Chea, but when specifically asked if he delivered documents from Nuon Chea to Duch at S-21, he agreed that he did this on a few occasions. He also testified that he picked up letters from Kaing Guek Eav, *alias* Duch, at S-21 and gave them to either “Pang” or Nuon Chea.

The witness stated that when Nuon Chea wanted a letter delivered, he would personally request that it be delivered. Saut Toeung said he would deliver the documents to Duch’s office, but he could not remember where he picked them up. Mr. Lysak asked who informed the witness where Duch’s office was, and Saut Toeung told him that it was difficult to find the location because it was a long time ago.

Mr. Lysak inquired whether Saut Toeung spoke to Duch when he delivered documents to Duch’s house or office. The witness responded that he did not speak with Duch because he was received at the gate. Mr. Lysak again tried to refresh the witness’s memory with prior testimony made before the Co-Investigating Judges where the witness made the following statements:

- “I met with Duch at the entrance of his house, but I am not sure if it was his house or S-21”;
- “When I received mails from [Duch] I always chatted with him”;
- “We just chatted for fun, we did not mention about content of the mails.”

Saut Toeung was asked whether this prior testimony was truthful, and he responded that it was because he did not discuss the content of the documents, just made small talk.

A request was made for the witness to describe the appearance of the documents delivered between Nuon Chea and Duch. The witness said that he did not ask anything about the document or chat at length. Mr. Lysak clarified that he wanted to know whether the documents sent between Nuon Chea and Duch were in an envelope. The witness affirmed that they were and that the ones to Duch had his names on them and were typically as “thick as a book.” He could not remember if the ones to Nuon Chea also had his name on them, and he contended that he never personally opened the envelopes.

The witness was then asked if there was a time that Pang disappeared and was replaced by someone else, but the witness responded that he did not know. Mr. Lysak inquired if Saut Toeung knew a person named Lin, who was purportedly Pang’s deputy. The witness maintained that he did not know who replaced Pang.



Saut Toeung also did not know if there were other messengers. He testified that he did not serve as a messenger for long and it took him only five minutes to fetch the documents. He said he delivered about five documents over a one-month period.

Mr. Lysak again referred the witness to the previous statement he made before the Co-Investigating Judges where he admitted that he was confused about the length of time he worked as a messenger and thought it was about a year. Mr. Lysak queried whether this statement refreshed the witness's memory that he actually served as a messenger for one year, and the witness said that it was not a year – it was more like a month. Saut Toeung continued that there were many other messengers, but he did not know them all.

Mr. Lysak asked Saut Toeung when he started to deliver the documents between Duch and Nuon Chea. The witness responded that he started in 1978 and in 1979 they fled. Mr. Lysak requested the witness to clarify when the delivery stopped, and Saut Toeung responded that it was sometime in 1979.

The witness was next asked if he still served as a messenger when he returned from his trip from China and North Korea, and he responded that he had stopped by this point. Mr. Lysak also asked if Saut Toeung continued to work as a bodyguard after he returned from the trip, and the witness said he had already stopped working. The witness was asked to clarify what he did between returning from China in September 1978 and the end of the regime in January 1979. He responded that he was a "normal security guard" for K-1.

Moving on, Mr. Lysak inquired if Nuon Chea had other offices besides K-1; Saut Toeung said he did not know. He then testified that he was not working as a guard at K-1 when the Vietnamese invaded in January 1979 because he had already been transferred to the transport unit. He was then requested to explain whether he was speaking about the time before or after the Vietnamese invaded, and the witness said it was after.

Mr. Lysak repeated the question, noting that he thought Saut Toeung worked as a guard at K-1 up until the time the Vietnamese invaded. The witness responded, "No, I didn't." The counsel then said, "Let me try this way: who were you working for on the day the Vietnamese arrived?" The witness replied that he fled with a unit and later on they were assigned some tasks in the military and in the transportation unit. He clarified that the unit he fled with was K-1.

Saut Toeung was asked if he knew what happened to the documents when he fled, and he responded that he did not have any knowledge of them. Mr. Lysak requested again to refresh the witness's memory, reading testimony previously given to the Co-Investigating Judges where Saut Toeung stated that when the Vietnamese soldiers liberated Cambodia in 1979 he ran to the Thai border. The witness also purportedly told the Co-Investigating Judges that he turned around and saw smoke, allowing him to conclude that the documents had been burned. After reading the prior statement, Mr. Lysak asked the witness whether this information was correct. The witness asked to reject it and declared that he never made this statement.

In response to further questioning the witness denied he ever went with Nuon Chea to Borei Keila while working as his bodyguard. Previous testimony made before the Co-Investigating



Judges was again proffered in order to refresh the witness's memory. Here, the witness was recorded to have said he escorted Nuon Chea to Borei Keila three times. He also previously testified that Nuon Chea went to open study sessions, but he did not know the content of the sessions because he never went inside.

After finishing reading the relevant sections, Mr. Lysak asked the witness whether this statement refreshed his memory, causing Mr. Ianuzzi to exclaim, "This is not refreshing; it is contradicting." The defense counsel continued that the witness is on the record saying that he did not go inside. Mr. Lysak retorted that this was for the witness to decide. Mr. Ianuzzi told him he could ask the witness how he reconciled the statement, but what he was

doing was not refreshing the witness's memory. The President did not sustain the objection, and the witness admitted that he might be confused since so much time has.

Saut Toeung then testified that study sessions might have occurred once every three to four months and that between ten and thirty people from various sectors would appear at the sessions. The witness could not remember whether any other leaders went to the sessions or if traitors or enemies were ever discussed in the sessions.

Mr. Lysak again referred to a prior statement made before the Co-Investigating Judges where Saut Toeung asserted that Nuon Chea talked about traitors during the study sessions and asked whether the witness now remembered Nuon Chea talking about traitors. Saut Toeung stated that he did not know this but learned that Nuon Chea taught about protecting people from the enemy. Mr. Lysak asked where he learned it, but the witness said he could not remember the location.

The witness was asked whether he knew how many people were typically in attendance for celebrations and responded there were more than fifty. The witness said that it was his responsibility to provide security to Nuon Chea during these events but he remained outside of the premises. He testified that he saw other people present at these celebratory rallies, including Pol Pot, Ieng Sary, and Khieu Samphan. He said he did not know who gave speeches because he was not close enough to hear. He also stated that the location of the rallies was sealed by a wall so that people could not see inside from the outside but further testified that he would go into the venue after the event ended to inspect the location.

"Where Are My Glasses?"

The witness was then shown a photograph from a book by Ben Kiernan. The witness said he could not see the photo without his glasses, noting that he did not have them with him. He mentioned that he could make out Pol Pot and could tell some other individuals appear in the photo. The President asked the witness to inform the Chamber what kind of reading glasses he would prefer, and the witness gave his prescription. The President then instructed that these reading glasses be given to the witness.

Court Takes Morning Recess

At this point, the Chamber adjourned for a twenty-minute morning break. Ang Udom, counsel for Ieng Sary, made his usual request that his client be permitted to waive his right to be present in the courtroom and retire to his holding cell to observe the remainder of the day's proceedings via audio-visual link. As usual, the President granted the request, requiring a waiver be immediately submitted to the court with the defendant's signature or thumbprint.

Questioning of the Witness Resumes

Having received his glasses, the witness was requested again to identify the individuals in the photograph. He named four individuals, including Pol Pot and Nuon Chea.

Mr. Lysak next asked if Saut Toeung ever traveled with Nuon Chea by train, and the witness responded that he had on the one occasion when they went to the Battambang province around 1977. He repeated that he did not remember the name of the Pagoda they visited while there because he was not interested in it.

Mr. Lysak also asked if the witness served as the bodyguard when Nuon Chea presided over the Standing and Central Committees. Saut Toeung responded that if he did he was outside the meeting. He was also not able to recollect the location of the meetings.

The prosecution then gave the witness the opportunity to explain why he first told the Co-Investigating Judges that he was not Nuon Chea's bodyguard and then changed his story after Duch identified him as such. The witness explained he was so traumatized by the regime that he had denied his role out of fear, but now he is more aware and therefore told the truth. Mr. Lysak asked if Saut Toeung understood that he was here as a witness and not an accused, and the witness said that he did. The witness was then asked whether he understood the importance of telling the truth to whoever asks, including the defense and the judges.

Mr. Karnavas objected to the question, stating that it was highly improper because the prosecutor was coaching the witness. He explained that the witness has an obligation to tell the truth and if he did not, he should be prosecuted for perjury. He contended that extracting promises of truth-telling from the witness would not assist the court because there was no way the witness would say he was not telling the truth, even if that required him to lie.

Mr. Lysak agreed to rephrase the question to request the witness to state whether the testimony given had been truthful. He also proclaimed that he thought it was inappropriate for Mr. Karnavas to accuse the witness of being a liar. Mr. Karnavas replied that the witness previously had been advised of his rights and still gave false testimony to the Co-Investigating Judges. He also asserted that he was just stating the fact that the witness had lied under oath. After the President sustained the defense's objection, the prosecution concluded its questioning of Saut Toeung.

The Floor is Given to the Civil Parties

Ty Srinna, Civil Party co-lawyer, then began her questioning of the witness. During the course of the examination, the counsel had to be reminded repeatedly to slow down because of the amount of information being lost in translation.

In response to the counsel's questions, the witness testified that Pang, his immediate supervisor, chose Saut Toeung to be Nuon Chea's bodyguard. He further noted he was educated about the political policies by Pang so he could protect the cadres from enemies. The witness said he was not required to give security to Nuon Chea immediately because he was "a very honest person for the duty."

The witness also stated that he first met Nuon Chea in 1970 but did not begin working for him until 1975 or 1977. He was then asked to think about the exact time he worked for Nuon Chea and responded that he could not remember the exact date.



Ms. Ty then asked if the witness knew Nuon Chea's role when he worked for him; Saut Toeung responded that he only knew what Pang had told him: Nuon Chea was a cadre. The witness then testified that he worked for Nuon Chea from 1975-1978.

The witness was also requested to give his impressions of the time he traveled with Nuon Chea, and he said he saw people transplanting rice. He described the situation of the people at the time as "normal." He clarified that he meant some people were thin and some were healthy.

Ms. Ty turned to the trip to Battambang province in 1977, asking for Saut Toeung's impression of the situation there. The witness replied that he did not know much about those cooperatives but that Nuon Chea would inspect the cultivation of rice when he went there. He also explained that Nuon Chea would open training sessions and visit the cooperatives when he visited the provinces. He admitted that he did not hear what Nuon Chea said in the training sessions. Although he remembered that people were cultivating rice and building canals or dams in the provinces, he maintained under further questioning that he did not pay attention to the physical conditions of the people in those areas.

The questions then turned to visits to the East Zone. The witness testified that the living situation was "normal." He was again requested to clarify what "normal" meant, and he said that people cultivated rice and lived their normal lives. He was asked whether the people suffered from starvation, and he said they were better in terms of food availability.

Ms. Ty then reminded Saut Toeung that yesterday he told the prosecutor that he went to visit a dam. The witness affirmed that he still stood by this statement. He said the living situation for the people there was also "normal." He testified that there were lots of people building the dam, and they would continue to work when Nuon Chea arrived rather than stopping to greet him. He confirmed that he observed any torture inflicted on the people if they failed to meet the work quota. He also explained that Nuon Chea sometimes noticed that the dam was not constructed well and would either give advice himself or summon others to advise the workers. The witness recalled that Nuon Chea went to several dam construction sites but stated that he did not accompany Nuon Chea on all of these visits.

Ms. Ty revisited the issue of whether the witness had observed Nuon Chea meeting with any leaders while in China, but Saut Toeung told her that he did not observe much at the time.

The Civil Party counsel then returned to a statement from previous testimony where the witness claimed that B-20 was the first place he stayed when he arrive in Phnom Penh, asking him to clarify his role at B-20. The witness said that B-20 was used as a place to mobilize forces temporarily. Ms. Ty then asked him to clarify further, specifying she wanted to know whether the witness ever heard that it was a training camp for the cadres of the regime before they were designated to different posts. The witness said that B-20 was an office where forces from the countryside would stay temporarily and then they would be designated to separate places. He noted that the cadres did not stay there – it was only used to mobilize forces. He also stated that B-20 was led by Pang. The witness also affirmed that the forces received education or training before they were sent out.

Ms. Ty then inquired whether the witness knew the reason the *Revolutionary Flag* had to be read out loud, and Saut Toeung replied it was because many of them could not read Khmer. He stated that the magazine was read to enhance their understanding of the *Revolutionary Flag*.

The witness also testified that he never saw Duch visit Nuon Chea's workplace.

The President then announced that the court would break for lunch.

Court Breaks for Lunch

At this point, the Chamber adjourned for the lunch break. Mr. Ianuzzi made his team's usual request that Nuon Chea be permitted to waive his right to be present in the courtroom and retire to his holding cell to observe the remainder of the day's proceedings via audio-visual link. As usual, the President granted the request but required the waiver be submitted immediately.

Court Resumes from Lunch

Upon returning from lunch, Ms. Ty resumed her examination of the witness by inquiring whether Saut Toeung ever saw Nuon Chea and Duch meeting together; he responded that he had not. Ms. Ty asked how well Nuon Chea knew Duch, and he responded that he knew him well. She then asked if Saut Toeung ever saw Nuon Chea and Duch meet, and if so, how often. He maintained that he never saw the two men meet.

Khieu Samphan's co-counsel Kong Sam Onn interjected that he did not understand the question, arguing that it was not well put. The President agreed and advised counsel to make sure the question was put in a precise fashion.

Ms. Ty rephrased the question, inquiring whether the witness ever saw Duch and Nuon Chea meet when he was tasked with bringing letters between them. The witness replied that he had never been close to Nuon Chea and Duch and did not know if they were talking to each other.

The counsel then asked if it was fair to say that Saut Toeung used to see that these people had meetings. The witness responded that he used to see them only when he sent or brought the letters from them; he did not know if they met face to face.

Saut Toeung explained that he started to deliver the letters between Duch and Nuon Chea in 1978. He was asked whether he ever noted any contact between these two people before 1978, and the witness replied, “No, I don’t know.”

Mr. Karnavas interjected to point out that this series of questions had already been asked several ways and the answer remained the same: the witness never saw Duch and Nuon Chea together. He presumed that the Civil Parties would ask for more time and contended that eliminating this line of questioning would be a good way to eliminate time being wasted. He suggested the President advise the counsel to be concise. Ms. Ty argued they are asking the same questions to make previous statements clear. The President sustained the objection and reminded counsel that she only had until the afternoon break to finish her questions.

Continuing with her examination, Ms. Ty asked if the witness recollected the statements he made before the Co-Investigating Judges, and the witness said he made some statements but could not recollect them. Ms. Ty then refreshed his memory that he previously testified that he saw the people building dams were being forced to work very hard by the leaders. The witness replied that he stood by this position.

She then quoted other previous testimony where Saut Toeung stated that Nuon Chea instructed people to work hard, and when he left, the leaders of the sector committee forced the people to work even harder. The statement also quoted him as saying he knew the people were not getting three meals a day plus one dessert a week as planned because they were getting skinny. The witness said he also stood by this statement.

Ms. Ty asked why the witness had to protect Nuon Chea when he went to the cooperatives; the witness responded that it was his job. He was also asked what justification people needed to receive a security guard, replying that it had to do with their position in the party.

Saut Toeung was asked whether he was aware of how Nuon Chea administered people or things, and he responded that they were obliged to respect the organizational discipline and were told to keep secrets. He also described Nuon Chea as a “normal person” and that he “educated people normally, [and] he did not use violence against any of us.” Another lawyer was observed poking her neighbor and rolling her eyes in an exaggerated fashion at this response.

Ms. Ty repeated more testimony made before the Co-Investigating Judges. This time she quoted a prior statement from the witness that stated *Angkar* was Pol Pot, Nuon Chea, and other senior leaders. The witness said that this was correct except for the part about the other senior leaders – *Angkar* referred only to Pol Pot and Nuon Chea, he claimed.

Ms. Elisabeth Simonneau-Fort, international Civil Party lead co-lawyer, was then given the floor to question the witness and began by requesting fifteen extra minutes from the Chamber. It was granted, but she was asked to avoid repetitive and leading questions.

Before beginning her examination, she told the witness that he may think she is repeating questions, but she is trying to clarify and get more details from him because it is this information that helps them to explain what happened to the people of Cambodia. She noted that his

testimony was particularly important. She reminded the witness that he had testified that he started his revolutionary life in a province in 1975 and asked whether he ever saw any of the accused persons there, even from afar. The witness said he did not know.

Ms. Simonneau–Fort then reminded him that he next went to B-20 and asked on what date he left to go there. The witness said he did not know because he was very young and could not read – he just followed others. She asked that he at least provide the year, and he responded 1968. She pointed out that he testified he was in a youth mobile league in 1968 and wanted to know if this was correct; he said that it was. He was asked what the mobile youth league was like, and he said it was not like a mobile unit but like a child unit that was moved from one place to another.



Returning again to the subject of B-20, the counsel asked if it was subdivided into several bases. Saut Toeung stated that he did not know, all he knew then was that it was an office. He testified that while he was there he did not see any of the accused persons, even from afar, because he only stayed there for a short while. He was not, however, able to recollect how long he stayed there. He then said, “I am being confused now,” further testifying, “In 1968 I came to B-20 and then I went to a unit which was tasked to transport ammunition and food, but I cannot recollect it well because there were many events and we were sent back and forth.”

Ms. Simonneau–Fort returned to the witness’s previous testimony that he transported food and ammunition by truck between two regions, asking if he was part of a military division at the time. Saut Toeung responded that it was actually a transport unit that used Chinese-made trucks and Cambodian-made boats. He was asked whether he understood why he needed to transport ammunition in late 1974, and he said it was because they had to fight against the soldiers and to try to seize Phnom Penh. He said that he stopped transporting in 1974. The counsel asked if office B-5 “rang a bell,” and Saut Toeung responded that he did not know.

The questions next turned to the witness’s arrival in Phnom Penh. Ms. Simonneau–Fort asked him where he was on April 17, 1975; he said he was staying in K-7. He was asked if someone talked to him in advance about an evacuation plan for Phnom Penh, and he answered that he did not have this information and they were not told in advance when they needed to move.

Ms. Simonneau–Fort reminded the witness that he had previously stated that on the way to Phnom Penh he came across people trekking and asked what kind of people they were. Saut Toeung claimed that it was difficult to answer because they were male and female citizens, and he cannot give categories of these kinds of people. He noted that a more detailed answer would require speculation. He also stated that he was not a historian, so he minded his own business, warning her that if she keeps asking for minor details he will not be able to provide consistent answers. The President told the witness it was ok for him to say that he did not remember the answer to a question.

The witness was asked if there were elderly people among the people he met. The witness asked for clarification on the age she meant, and Ms. Simonneau–Fort said it was not important and she would move to another question.

Ms. Simonneau–Fort inquired whether Saut Toeung observed soldiers monitoring the people, and he responded that he only saw resistance soldiers guarding important offices within the city. He was also asked if he discussed what he saw on the road with his unit mates, and the witness responded that he saw people moving out. She again asked if he discussed this with his companions, and he said that he did not.

He was next asked to quickly describe what he saw when he arrived in Phnom Penh. He said he could not because he did not know where to start. She walked him through it, and he stated that it was a town in chaos and people were leaving the cities.

Requested to give details on his assignments as a bodyguard, Saut Toeung testified that he did “nothing important”; he just guarded the compounds and would play sport when he could. The counsel reminded him that there were many bodyguards and asked whether this meant Nuon Chea ran a risk when he traveled. He responded that there was danger, and the bodyguards were supposed to be “vigilant” against attacks and car crashes.

The witness was also requested to speak about the people in Battambang working the rice fields. He clarified that the people working were a mix of peasants and people from the city. He knew the people were from the cities “from a presumption” because he knew Phnom Penh was empty.

The President then adjourned for the afternoon recess, and upon returning, handed the floor over to Ms. Simonneau–Fort for an additional fifteen minutes. The counsel asked the witness about the time the witness was at unit Y-10, and he testified that Pang was in charge. She then showed him a document allegedly drafted by Duch and was about to read him the document when Mr. Kong argued that the document was not relevant. Ms. Simonneau–Fort responded that if she was allowed to read it the relevance would be clear. Mr. Ianuzzi then brought an objection of his own, stating that the witness was not asked whether he knew about the document before it was projected it on the screen. The President instructed the Civil Party counsel to follow the practices of the Chamber.

Ms. Simonneau–Fort removed the document from the witness and the screen and asked if Saut Toeung knew if Mr. Kamee was a member of S-21. The witness said he did not know. She then stated that people disappeared at Y-10 and that the witness had previously said that the only people who disappeared were traitors and that he believed they were brought away to be killed. He also said, she reminded, that he was scared and that he had heard of the arrest of several powerful leaders in the party. The witness agreed that he said this and that some people were in fact taken away.

Ms. Simonneau–Fort questioned whether those at Y-10 were tasked with arresting others. He said that he did not know them because they had different designations. She then asked if there were people tasked with guarding people that were in prisons at Y-10. He said that he did not know that either.

Moving on to his job as a messenger, the counsel asked if Saut Toeung remembered phoning Duch at the request of Nuon Chea to set appointments, and the witness said he did not have a telephone at the time. She then reminded him of his previous testimony before the Co-Investigating Judges, where he stated that the meetings were made by phone. The witness did not confirm the answer, stating that he was not clear. He suggested that the previous statement be removed.

He was next asked if he recalled receiving documents on ethics during his training. He said that he did and read it on a daily basis. He testified that those who did not abide by them would be re-educated. Ms. Simonneau-Fort asked if there were more consequences for not obeying the rules of ethics, but Saut Toeung claimed that there was nothing else. She refreshed his memory of his previous testimony before the Co-Investigating Judges where he said that people who violated the ethics would be dead, asking that he explain this statement. The witness said he could not; he did confirm, however, that he made this statement.

The witness was asked if he was a free man between 1975 and 1979, and he responded that during that time the rules were very strict. Ms. Simonneau-Fort requested he explain what she should understand from that answer and was told that it meant that those who did not respect the organization would be accused of wrongdoing.

The counsel asked the witness if he was afraid during the period, and Saut Toeung stated that he was scared of committing any wrongdoing. If he committed an offence, he claimed, he would be taken away or subjected to execution. After this response, Ms. Simonneau-Fort stated she had no further questions for the witness.

The President asked how long Nuon Chea's defense would need to examine the witness and was told only one hour because of all the impeachment that had already taken place today. Mr. Ianuzzi was then given the floor.

Defense Counsel for Nuon Chea Calls Credibility of Witness into Question

Mr. Ianuzzi then revisited three documents that had already been seen that day. The first was a written record of an interview of the witness with the Co-Investigating Judges. The witness testified that he was not familiar with that document. Mr. Ianuzzi reminded him that he had been referring to the document over the past two days and asked him to take a look at it since it has formed the basis of a substantial part of his testimony. The witness then requested the counsel to read it to him. Mr. Ianuzzi responded that it was a five-page document and suggested that he leaf through it. The witness stated he did not understand the question and then said he could not understand the translation well. The President asked if he could read the document well, and the witness said he wanted the counsel to read it to him. Mr. Ianuzzi asked the witness whether he read Khmer, and the witness answered, "A little."

Counsel then stated that if the witness was tired he would be happy to give him a rest until tomorrow. Mr. Lysak then



objected, contending that Mr. Ianuzzi was badgering the witness. The President then asked the witness if he required the counsel read to him, and the witness said yes. The defense counsel was instructed to read the document to the witness.

Mr. Ianuzzi interjected, stating that he did not have any substantive questions and asking to try another way. He said that the document being shown to the witness purports to be a statement made by to the Co-Investigating Judges in December 2007. The witness said he did not recall it. After being instructed to look at his thumbprint on the document, Saut Toeung stated that he remembered giving this statement to the Office of the Co-Investigating Judges. He asserted, however, that he did not remember putting his thumbprint on the document. He was asked if he remembered taking an oath before making the statement, as indicated on the second page of the document. The witness said he remembered it, and at that time he did not want to take an oath, commenting, "But since they forced me to, I followed." Following up on this comment, Mr. Ianuzzi asked whether someone from the Office of the Co-Investigating Judges forced him to take an oath, but the witness responded that he decided to take the oath because that it was what he needed to do. He further stated that he took an oath the first time he came to the ECCC.

Moving on to a written record of the swearing in of the witness dated December 2009, Mr. Ianuzzi noted that document purported to be executed at 9 a.m. on the same day the witness had a confrontation with Duch. He inquired whether this was the oath Saut Toeung was talking about moments before. The witness confirmed that it was.

The next document, which had also been referenced several times over the past two days, was a written record of a confrontation between the witness and Duch. The witness was given a chance to look at it and then said that he did not have the chance to look at it. Mr. Ianuzzi retorted, "Well, I just saw you looking at it." The witness explained, "I do not understand the document because you gave me only a portion." Mr. Ianuzzi responded, "No, I gave you all of it." The witness finally agreed that he had the document.

Mr. Ianuzzi noted that the document in question was purported to be dated 15 minutes after the witness took his oath and asked the witness whether he remembered taking his oath before the confrontation began. Saut Toeung confirmed he took an oath before he met Duch. He was then asked whether it was his thumbprint, and the witness told him that only educated people could affix their thumbprint to a document. The witness also noted, however, that he could recognize his handwriting and thus presumed the document and thumbprint to be his. Laughing, Mr. Ianuzzi agreed that it was hard to identify thumbprints.

The witness was pointed to the third and final document – the same document to which the Civil Parties had repeatedly referred twenty minutes earlier. The witness stated that he did not remember the document. Mr. Ianuzzi responded that people have been asking him about this document all day. The witness then acknowledged that he knew the document. Mr. Ianuzzi told him that it is a written record of the witness's interview with the Co-Investigating Judges on December 2, 2009. After observing the last page that contained a thumbprint and signature, the witness agreed that it was his statement; he also remembered being under oath.

Mr. Ianuzzi returned to a documents where one of the prosecutors was recorded as saying that the witness should not have any concerns about being prosecuted. The witness said he did not remember hearing this. Mr. Ianuzzi quoted a judge who is on the record as stating that the witness would not be prosecuted for his actions in the Democratic Kampuchea and reminding the witness that he had the right not to incriminate himself and the duty to find the truth. The witness responded that he also did not remember this. Mr. Ianuzzi inquired whether Saut Toeung understood the statements as cautions and advice. The witness said he did not understand.

The counsel went back to the written record of the confrontation between the witness and Duch that indicated there was an overnight break in the testimony. The witness said he did not remember the break and he does not remember going to “that place.” Mr. Ianuzzi asked for more clarity as to what place Saut Toeung meant and was told that the witness was interviewed on three occasions.

Mr. Ianuzzi asked the witness if he remembered ever being told that if he changed his original story and told the truth, he would not have to come back and tell his story before the trial chamber. The witness responded that he did not tell “all the truth” at the first interview because he was scared. He went on to say that at the second interview he started to be more truthful because he was aware of the procedures. Counsel then tried to clarify whether this meant he did not remember this promise from the judges and prosecution, and the witness simply responded, “I think everything is already clear now.”

Mr. Ianuzzi inquired whether the witness ever discussed his change of heart with anyone. The witness responded that he did not. He also stated that he did not remember any other assurances that he would not be prosecuted from other members of the Office of the Co-Investigating Judges. Mr. Ianuzzi asked about assurances from the witness protection unit, and the witness only replied, “I don’t know.”

Counsel asked the witness to recall his prior statement about a Chinese circus that Nuon Chea attended in Phnom Penh where Saut Toeung waited outside and could not see if other leaders were present. The witness testified that he remembered the statement.

The questions then returned to what the witness protection unit had told the witness about his testimony. He responded that he was not told anything, prompting Mr. Ianuzzi to inform the court that he had no further questions.

The President thanked the witness and his duty counsel and adjourned the session, inviting the witness and his duty counsel to return tomorrow for examination by the remaining defense teams.