

Soldiers from the Khmer Rouge Army of Democratic Kampuchea gather at Olympic Stadium. Testimony on the structure of the DK military began at the ECCC on Wednesday. (Source: Documentation Center of Cambodia)

Testimony on Military Structure and Forced Movement Commences

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The third segment of the Case 002/1 trial started today at the Extraordinary Chambers in the Courts of Cambodia (ECCC). Hearings in this trial segment will deal with two major phases of forced population movements during the Democratic Kampuchea (DK) regime, and were preceded by a thorough half-day overview by successive Trial Chamber greffiers, who read out all Closing Order paragraphs that have been deemed relevant for this segment. Following some tense exchanges between International Co-Counsel for Nuon Chea Andrew Ianuzzi and the Trial Chamber concerning the possible use of “torture-tainted evidence,” the first witness in this trial segment, Meas Voeun, began his testimony, providing details on several issues including the DK military structure and the evacuation of Phnom Penh.

Military Structure, Joint Criminal Enterprise, and Key Policies

Throughout the morning, successive Trial Chamber greffiers provided a comprehensive overview of the contents of the upcoming third section of the Case 002/1 trial by continuing to read out those paragraphs of the Closing Order which would be relevant to this section of the trial.¹ Trial Chamber Greffier Se Kolvuthy commenced the morning session, before a virtually empty public gallery, with a reading of several Closing Order paragraphs relating to the

¹ The full list of Closing Order paragraphs which the Trial Chamber has identified as relevant to the third segment of the Case 002/1 trial are 113 to 149, 156 to 165, 221 to 227, 228 to 273, 274 to 281, 873 to 879, 893 to 901, 1016 to 1024, 1146, 1151 to 1162, 1580 to 1584, 1589 to 1597 and 1601 to 1604. The Closing Order in Case 002 can be found at <http://www.eccc.gov.kh/document/court/14888> (in Khmer), <http://www.eccc.gov.kh/en/documents/court/closing-order> (in English), and <http://www.eccc.gov.kh/fr/document/court/ordonnance-de-cl%C3%B4ture-dans-le-dossier-002> (in French).

Revolutionary Army of Kampuchea (RAK). In particular, these paragraphs dealt with the hierarchical structure, lines of communication, disciplinary methods, and activities of the RAK, including the participation of RAK forces in purges.²

At this point, around 100 villagers from Kampot silently filed into the public gallery, their buses having arrived late this morning. They entered just in time to hear Ms. Kolvuthy move on to paragraphs that described the findings of the Office of the Co-Investigating Judges (OCIJ) regarding the joint criminal enterprise mode of liability,³ particularly with respect to the co-accused. In particular, these paragraphs stated that the common purpose of the Communist Party of Kampuchea (CPK) was “to implement rapid socialist revolution in Cambodia through a ‘great leap forward’ and defend the Party against internal and external enemies, by whatever means necessary.”⁴ As alleged in the Closing Order, the CPK leadership designed five major policies through which it would seek to achieve this common purpose:

- The repeated movement of the population from towns and cities to rural areas, as well as from one rural area to another;
- The establishment and operation of cooperatives and worksites;
- The re-education of “bad-elements” and killing of “enemies,” both inside and outside the Party ranks;
- The targeting of specific groups, in particular the Cham, Vietnamese, Buddhists and former officials of the Khmer Republic, including both civil servants and former military personnel and their families; and
- The regulation of marriage.⁵

Overview of the Alleged Forced Movements of the Population

The next paragraphs Ms. Kolvuthy read discussed the first of those policies, which is also the focus of the entire Case 002/1 trial, namely, the forced movement of the population.⁶ Throughout this portion of the hearing, both defendants in attendance — Khieu Samphan and Nuon Chea — alternated between looking carefully through papers and seeming to listen attentively to the reading.

Ms. Kolvuthy began with a general overview of purpose and dates over the three phases of population movements, namely:

- Phase 1: the movement of people out of Phnom Penh on or around April 17, 1975;
- Phase 2: movements of people in the Central (Old North), Southwest, West, and East zones from late 1975 until sometime in 1977; and
- Phase 3: the East zone.⁷

² The relevant Closing Order paragraphs are 113 to 149.

³ The relevant Closing Order paragraphs are 156 to 159.

⁴ Closing Order paragraph 156.

⁵ Closing Order paragraph 157.

⁶ The relevant Closing Order paragraphs are 160 to 165.

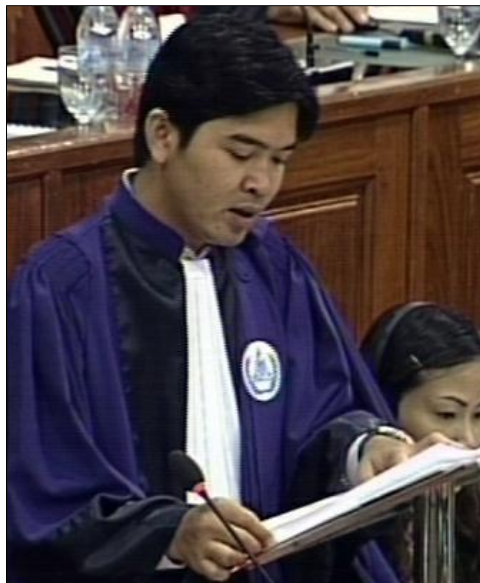
⁷ The relevant Closing Order paragraphs are 221 to 227. The court has noted that Case 002/1 will focus on Phases 1 and 2 of these population movements.

Ms. Kovulthy then turned to paragraphs on Phase 1. These paragraphs indicated that on or around April 17, 1975, an estimated 1.5 to 2.6 million people, mostly civilians, were forced to leave Phnom Penh via the national roads and were sent in all directions, sometimes without a fixed final destination. At this point, a second group of approximately 30 villagers took their seats in the public gallery.

Trial Chamber Greffier Dav Ansan then took over from Ms. Kolvuthy, continuing the focus on Phase 1 by reading paragraphs detailing the OCIJ's findings as to the means and methods of the Phase 1 population movement. These paragraphs touched on issues including the modes of transportation used in the forced movement, the provision of food, instances of ill-treatment, and acts of violence and deaths along the way.⁸ The next paragraphs addressed reasons for the movement, looking both at reasons given to the population and those offered by senior leaders, including the co-accused,⁹ and its planning.¹⁰

Mr. Ansan then turned to Phase 2 of the forced movement, reading paragraphs detailing the OCIJ's findings as to various aspects of that phase, including its time and location, the people moved, the means and methods for the movement, the reasons given for it, and its planning.¹¹

Before the Court took a short adjournment, National Lead Co-Lawyer for the civil parties Pich Ang rose to inquire why two paragraphs, 161 and 282, had not been read out.¹² Trial Chamber President Nil Nonn responded to this inquiry as soon as the hearing resumed, noting that the first



of those paragraphs had in fact been read out. He stated that the second paragraph had not been read because it was not considered to contain facts concerning the accused in question. The president further noted that this approach was consistent with a previous Trial Chamber written decision.¹³ This explanation prompted Mr. Ang to clarify that he had meant to refer to paragraph 261, not 161. However, without addressing this statement, the president moved on, inviting the third Trial Chamber greffier of the day, Duch Phary, to read the remaining relevant Closing Order paragraphs.

Mr. Phary's reading addressed defendant Nuon Chea's alleged role in the CPK security apparatus, including as a member of the Central Committee's Military Committee, and in relation to the S-21 Security Centre and the S-24 (Prey Sar) Worksite;¹⁴ and defendant Khieu Samphan's

⁸ The relevant Closing Order paragraphs are 228 to 241.

⁹ The relevant Closing Order paragraphs are 242 to 249.

¹⁰ The relevant Closing Order paragraphs are 250 to 260.

¹¹ The relevant Closing Order paragraphs are 261 to 281.

¹² Paragraphs 262 and 282 relate to the declaration of admissibility of civil parties in respect of Phases 1 and 2 of the forced movement of the population.

¹³ This decision has the document number E124/7.2.

¹⁴ The relevant Closing Order paragraphs are 873 to 879.

role in the military.¹⁵ The paragraphs he read also discussed the claimed association of each of the accused – Nuon Chea, Ieng Sary and Khieu Samphan – with other CPK leaders and their alleged participation in the common purpose, specifically in relation to Phases 1 and 2 of the forced movement.¹⁶ Finally, Mr. Phary outlined relevant character information about the three defendants, with the information relating particularly to each of the defendant’s alleged activities prior to and during the DK regime.¹⁷

The president then declared that, following lunch, the witness TCW 428 would begin his testimony. However, the Chamber first wished to issue a ruling in relation to this witness in response to a request from the Office of the Co-Prosecutors (OCP) to place a new document, namely an interview of the witness dated December 11, 2010, on the case file. The president first noted the Trial Chamber’s power, under Internal Rule 87(4), to admit new evidence deemed conducive to ascertaining the truth where that evidence also satisfied the *prima facie* standards of relevance, reliability, and authenticity as required under Internal Rule 87(3). Importantly, he went on, in accordance with Internal Rule 87(4) and international jurisprudence, the Chamber has generally required the requesting party in such situations to satisfy the Chamber that the evidence in question had not been available before the opening of the trial and/or could not have been discovered through the exercise of due diligence.¹⁸

As to the interview document that the OCP now sought to add to the case file, President Nonn advised that although it was indeed created after the opening of trial, it was available when the Trial Chamber notified the parties on October 25, 2011, that witness TCW 428 might be called to testify.¹⁹ Therefore, the President went on, the OCP request came “almost one year after” this notification. Furthermore, he added, the interview document ran to 40 pages and was only available in Khmer as of Friday, September 28, 2012 – namely, the Friday before the witness was scheduled to testify. The president contended that this provided little notice to the parties and Chamber to consider the document’s substance. For these reasons, the Trial Chamber rejected OCP’s request for lack of timeliness, pursuant to Internal Rule 87(4).

“Torture-Tainted Evidence” and Tensions in the Trial Chamber

International Co-Counsel for Nuon Chea Andrew Ianuzzi rose at this juncture to make two applications. He first conveyed his client’s wish to comment in open court on the Closing Order passages just read. However, in view of Mr. Chea’s health issues, Mr. Ianuzzi continued, he wished to request that the Court take an additional 15 minutes for lunch to allow Mr. Chea to rest, return to give his brief comments, and then retire to his holding cell. The Trial Chamber judges conferred on this point for several minutes. The president then responded that the Chamber would duly consider this request but that for this afternoon, the Trial Chamber would first hear the testimony of Witness TCW 428. He also granted Mr. Ianuzzi’s request to permit Mr. Chea to follow the afternoon’s proceedings via his holding cell.

¹⁵ The relevant Closing Order paragraph is 1146.

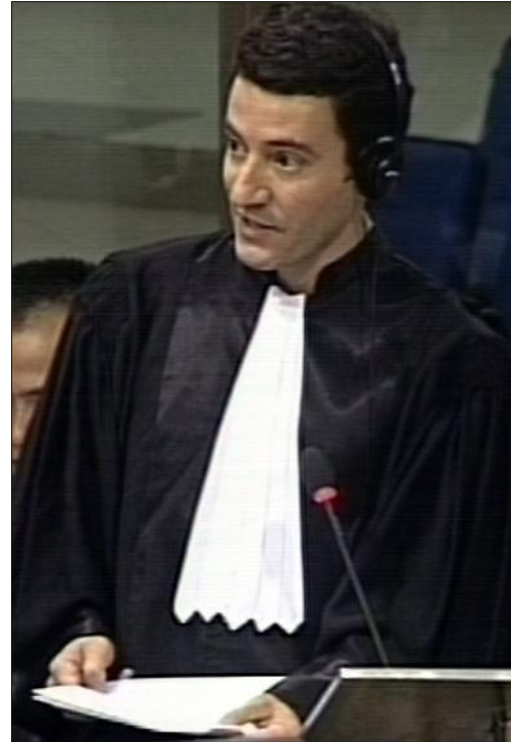
¹⁶ The relevant Closing Order paragraphs are 893 to 901 (for Nuon Chea), 1016 to 1024 (for Ieng Sary), and 1151 to 1162 (for Khieu Samphan).

¹⁷ The relevant Closing Order paragraphs are 1580 to 1584 (for Nuon Chea), 1589 to 1597 (for Ieng Sary), and 1601 to 1604 (for Khieu Samphan).

¹⁸ The president cited a document numbered E190 in respect to this principle.

¹⁹ This notification has the document number E131/1.1.

Mr. Ianuzzi next noted that he wished to make an application with respect to Witness TCW 428 and as such, asked if the witness could not be brought in for the first few minutes this afternoon so that he might put this application forward. After conferring with the bench, President Nonn requested Mr. Ianuzzi to put forward a summary of the application he sought to make, despite it already being the scheduled lunch adjournment time. Specifically, he instructed Mr. Ianuzzi to be precise and first mention only the subject matter of the application so that the Chamber could decide on time allotment for a subsequent detailed application.



Mr. Ianuzzi stated that his team wished to make a motion *in limine*, that is, “an oral application prior to the testimony of a witness requesting the exclusion of certain segments of that testimony.” In this case, the application related to one of the witness’s OCIJ interviews.²⁰ Mr. Ianuzzi qualified that he was not “trying to cast any aspersions”; however in that interview, he contended, the investigator put to the witness several questions related to the S-21 confession of Chou Chet *alias* Sy by quoting “a substantive portion of that torture-tainted material.” He added, “Despite the categorical prohibition of the ... Convention against Torture [on such use], again we have a judicial officer relying ... on torture-tainted evidence.” This use was “categorically, absolutely prohibited,” he went on, as the Trial Chamber had already noted on several occasions.

Mr. Ianuzzi stressed, which he said was for the particular benefit of Judge Jean-Marc Lavergne, that he was complaining not about procedure but about substance. This was not a motion for annulment, he asserted. Instead, Mr. Ianuzzi sought to strike the offending paragraphs of testimony, namely questions and answers 16 to 20, from the Court record. He likened the situation to the “fruit of the poisonous tree” metaphor, the legal violation – the torture – being the tree and the confession being the fruit, or the result, of the violation. He concluded by citing jazz legend Duke Ellington, who once said that there were “two kinds of music: good and bad.” Likewise, he said, there were two kinds of evidence, and this was the “bad” kind.

President Nonn noted Mr. Ianuzzi’s application but suggested that it was indeed a procedural application, despite Mr. Ianuzzi’s protestations to the contrary. Adding that the Chamber had encountered similar applications in the past and reiterating that Mr. Ianuzzi “of course had the right to challenge the proceedings in the investigation,” the president adjourned the proceedings for lunch. At this point, and despite the fact that the entire Trial Chamber bench had begun filing out of the courtroom, Mr. Ianuzzi rejoined, “If this is an oral application, this needs to be dealt

²⁰ Mr. Ianuzzi’s application related to the document numbered E3/80, and in particular, the fifth page in the English version. The relevant ERNs for that page are 400491657 (in English), 00486472 (in Khmer), and 00509787-88 (in French).

with by the defense and the OCP. Walking away doesn't solve the problem." The Trial Chamber nevertheless did so.

The afternoon's proceedings commenced with the president chastising Mr. Ianuzzi for insisting on making his motion despite the fact that the Chamber had already adjourned. He then gave the floor to Judge Silvia Cartwright to respond to the motion. She added to the president's reprimand by stating that there was "no need to impute any impropriety by the Chamber." She also noted of Mr. Ianuzzi, "I see you are nodding so I can assume you did not intend to do that."

Although noting that the counsel's application had arisen "very last minute" as Mr. Ianuzzi had presumably held the concern for some time before the lunch break, Judge Cartwright clarified that the Chamber had considered Mr. Ianuzzi's application. More importantly, she added, as Mr. Ianuzzi himself noted, the Trial Chamber had consistently and unanimously ruled that confessions obtained contrary to the Convention against Torture could not be used as evidence or a basis for questioning. She then advised the parties that based on this earlier position, the Chamber would neither permit any questions on the content of Chou Chet's confession nor use the confession in its own trial verdict. Addressing Mr. Ianuzzi directly, she explained, "Since clearly you do not understand the procedures under which we are working here," the ECCC's applicable legal framework did not provide for the striking out of testimony as a remedy. Finally, she concluded, it was implicit the Chamber required no submissions from any other party today on the matter.

Mr. Ianuzzi began by responding that his nodding should have been interpreted neutrally, at which point Judge Cartwright cut him off, stating that the Trial Chamber's "other consistent ruling ... is that you do not question rulings of the bench." When Mr. Ianuzzi attempted to continue his comments, Judge Cartwright interjected, advising that there was no need to make a submission on the ruling and indicating that any further comment should be confined to the appeal process.

Mr. Ianuzzi pressed at this point that his application had been an interim one and not something that could be cured in six months or a year from now. Moreover, he persisted, the tribunal's legal framework clearly could encompass a general motion like this one; such motions were an established practice in his jurisdiction and were not, at the ECCC, prohibited by any rule; and soliciting the views of all parties on applications was a "standard transparency issue." Finally, he sought to clarify his persistence in speaking after the announcement of the lunchtime adjournment, explaining that he had understood the president's comment to be a dismissal of the application as an application for annulment due to procedural defect and that he "wanted to make it very clear that that was not what I was asking for and that is why I continued to speak."

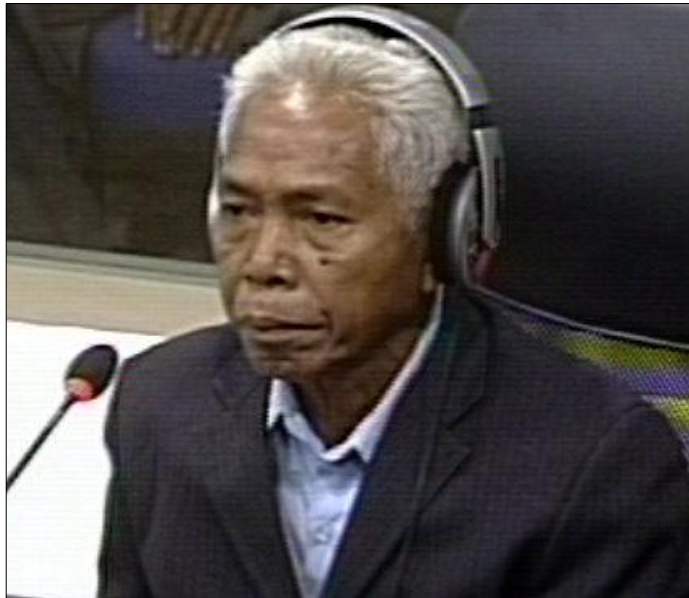
The president advised Mr. Ianuzzi that he needed to review the transcript. He asserted that he had made an observation about Mr. Ianuzzi's submission and had not characterized it as a request for nullification. Rather, he had suggested that Mr. Ianuzzi should have done this at the judicial investigation stage prior to the issuance of the Closing Order, particularly because there had been many such issues already and Mr. Ianuzzi had already had "ample time to respond." However, he went on, he had not ruled on Mr. Ianuzzi's application at the time he announced the lunchtime adjournment as the Chamber had not deliberated on it yet.

Mr. Ianuzzi then sought to argue that this was precisely the point he had been making: the issue was not an issue during the judicial investigation stage but at this stage, since the Chamber had chosen to call that witness to testify. At this point, the president interjected, saying, “You probably misunderstood. The chamber already ruled on this issue. . . . We observed and noted your submission. You are not allowed to speak on this topic again.” The president then invited the witness TCW 428 and his duty counsel into the court room.

Witness Testimony on the Forced Movement of the Population Commences

The president opened the questioning of the first witness on the “crime case” by eliciting some biographical information and information concerning his OCIJ interviews. The witness, Meas Voeun *alias* Svay Voeun, is a 68-year-old rice farmer living in Banteay Meanchey province. He is married with eight children, one of whom has passed away, and is Christian. He had previously been interviewed three times by the OCIJ, at his house, although he was unclear on the precise interview dates. He had also read some of the written records of his OCIJ interviews prior to testifying today and confirmed that they were “rather consistent” with his actual responses. Pursuant to his request, the Trial Chamber had appointed Say Vuthy as duty counsel; Mr. Vuthy is a member of the Cambodian bar.

National Senior Assistant Co-Prosecutor Veng Huot then commenced questioning on the part of the prosecution by first seeking details of the witness’s work history in the revolutionary movement. Mr. Voeun stated that he first joined the revolution in 1968, recalling that, at that time, he was “a country youth” and that another person “inducted me into the revolution.” After a follow-up question from Mr. Huot, the witness clarified that he was “the representative of youth” in his village.



Khieu Samphan’s Pre-1975 Role

Asked by Mr. Huot whether he had heard the names of any cadre when he first joined the movement, Mr. Voeun said that he did, although he “could not recall his name.” The witness then confirmed, in response to a question from Mr. Huot, that he had heard of Khieu Samphan at that time. “I had heard his name on the radio,” he said, “but I had not met him in person. He was campaigning against Samdech Sihanouk.” However, the witness denied ever receiving any written documents from Mr. Samphan.

Mr. Huot moved to questioning Mr. Voeun about details the witness had provided in one of his OCIJ interviews.²¹ Mr. Huot relayed part of one of the witness's responses in the interview, in which the witness stated that he joined a patriotic youth league in order to liberate Cambodia from capitalism and French colonialism and that at that time, he was a bodyguard and messenger of cadres. Mr. Huot asked about the identities of these cadres. At this point, International Co-Counsel for Khieu Samphan Anta Guissé objected, seeking clarification of the French document number for the witness's OCIJ interview. Mr. Huot repeated this detail, re-read the portion of the witness's testimony, and asked if the witness could still recollect past events while he worked in this role and for whom he worked. The witness responded, "Before I was the bodyguard of the cadres who left Phnom Penh to reside in the countryside — they were resisting in the forest — my role was to provide security protection to these cadres." When pressed, the witness listed "Vorn Vet, Brother Norng Suon, and Mr. Khieu Samphan" as some of these cadres.

Ms. Guissé interjected a second time to seek clarification on the French document number to prevent any further confusion. She supplied an alternate set of ERNs that were echoed by International Civil Party Lead Co-Lawyer Elisabeth Simonneau Fort, which Mr. Huot acknowledged as indeed being the correct ones. Mr. Huot then asked the witness whether he ever received any documents from Mr. Khieu Samphan. "Never," Mr. Voeun responded.

Upon further questioning from Mr. Huot, Mr. Voeun stated that the cadre who introduced him to the Patriotic Youth League was named Moeun (now deceased). Mr. Huot then turned to another statement made by the witness in his first OCIJ interview that in 1971 he joined the army and was trained in military techniques.²² Mr. Huot sought details of those techniques and, in particular, whether the witness had been instilled with a certain political ideology. "Before the training was conducted," the witness responded, he had indeed been trained "on the political situation of the country. They told us that Cambodia was not independent. Economically, we were under the colonialism of France."

Military Hierarchy during the DK Regime

Mr. Huot turned to the issue of the witness's understanding of authority structures within DK, noting, in this regard, the witness's testimony in his OCIJ interview about the promotion of Ta²³ Soeung to the military committee and of himself to the role of commander of Battalion 136 of Regiment 16 within Division 1. Asked about the hierarchical structure of the zone, particularly between the zone chairman and the Division 1 chairman, Mr. Voeun stated, "The zone had more authority than the division." The zone military committee at that time, he added, was initially Ta Mok and that Ta Soeung was the Division 1 commander. The witness was then promoted by Ta Soeung to the role of regiment commander within Division 1 in 1975 after a previous commander had died, he added, and had "about 600 soldiers within [his] regiment." Ta Soeung was the person who provided them arms within his regiment, Mr. Voeun said.

²¹ Mr. Huot was referring to the first interview, which has the document number E3/424, and begins with ERN 00418518 (in Khmer), 00784178 (in English), and 00455266 (in French), although the OCP first erroneously cited 00784186 as the French ERN.

²² The document number is E3/434 and the relevant ERNs are 00418518 (in Khmer), 00784179 (in English), and 00455267 (in French).

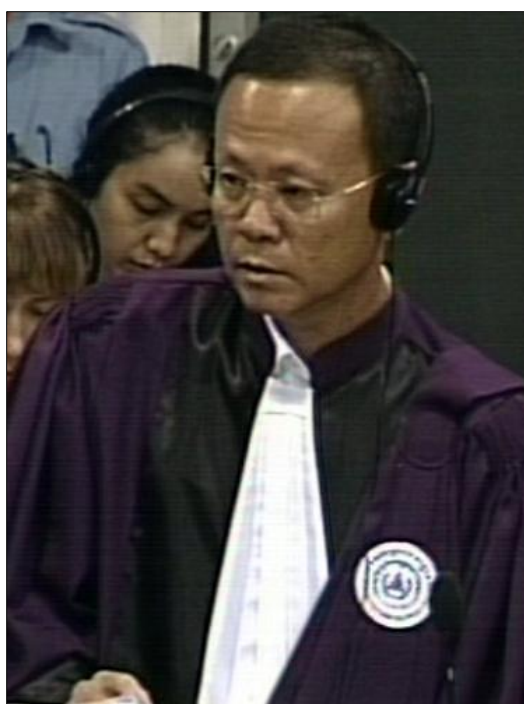
²³ In Khmer, "Ta" means grandfather and is traditionally used as an honorific intended to convey great respect for the person to whom it is addressed.

Regarding the issue of the chain of command in the witness's regiment, Mr. Voeun stated that he "received orders from the commander of Division 1." Mr. Huot then asked who had the authority to form a battalion or regiment, to which Mr. Voeun responded, both "the zone as well as the division secretary." Asked by Mr. Huot about who in turn had the authority to appoint those individuals to their roles, the witness sought clarification on the question three times before responding that he "could not grasp that situation. What I knew was only up to the zone level."

Directing his attention to the other end of the military hierarchy, Mr. Huot asked the witness about the criteria for the selection of soldiers during the DK regime and whether people were screened based on their social status. "Before someone was selected to become a commander of a regiment, battalion, or division, they would screen for royalty," Mr. Voeun said, adding that "if a person engaged in good conduct in society, that person would also be considered."

The Lead Up to the Liberation of Phnom Penh

Mr. Huot moved to consider the time before the attack on Phnom Penh on April 17, 1975. Asked for details of his participation in any battles at that time, the witness responded that he was at National Road 5 in 1970, and was involved in battles "from Krokor,²⁴ to Kampong Chhnang, and then to Phnom Penh." Mr. Huot asked the witness for details on those battles. "Ta Mok was the one who issued direct orders," Mr. Voeun responded. He added that he also received orders from Ta Soeung. This answer prompted Mr. Huot to seek the witness's clarification as to why he said he received orders from both Ta Mok and Ta Soeung. The witness explained that Ta Mok's orders were passed down through Ta Soeung to the soldiers. During the fighting along National Road 5, Mr. Voeun added, "there were all kinds of bombardments, shelling, bullets," so people tried to flee from the battlefield.



Next, Mr. Huot referred to Mr. Voeun's testimony to OCIJ investigators that before the attack on Phnom Penh on April 17, 1975, there was a meeting of commanders including "Ta Son Sen and Ta Nuon Chea" regarding the attack on Phnom Penh.²⁵ Mr. Huot asked where this meeting was held, but the witness stated that he did not know. However, he did say that he was informed about the meeting one week prior to the attack on Phnom Penh. Mr. Huot pressed the witness on this point, asking whether the division commander who informed the witness about the meeting also advised him specifically of the meeting's agenda. To this, the witness responded:

I received plans for the attack from the division commander. He told us that we would prepare our forces from all spearheads. I was to lead the attack from the

²⁴ Krokor is a district in Kampong Chhnang province.

²⁵ The relevant ERNs for this portion are 00418519 (in Khmer), 00784179 (in English), and 00455268 (in French).

west, from Pochentong, Stung Meanchey, ... and Tonle Sap; that is, from the west. I knew about this plan of attack. However, the main forces were actually not used, as they were in the trenches. Only small forces were first mobilized.

The hearing was briefly adjourned at this point for the afternoon recess. When it resumed for the day's final session, Mr. Huot returned to the issue of the meeting agenda, seeking to know whether there had been a discussion of the evacuation of Phnom Penh. The witness replied:

In this meeting, there was no indication in relation to the evacuation of people out of Phnom Penh. We discussed mainly the attack on Phnom Penh. It was our expectation that we would be able to capture Phnom Penh on April 18, 1975, but we were actually able to do so on April 17. ... At that time, they designated one regiment to attack from one direction, and it was under the supervision of the division commander.

Mr. Voeun added that he commanded the regiment from Pochentong and the two other regiments, including one from Stung Meanchey, were under other people's command.

Post-Liberation Phnom Penh and Life in the West Zone

Mr. Huot began a series of questions focusing on the witness's experiences within Phnom Penh from April 17, 1975. First, Mr. Huot mentioned the issue of the surrender and treatment of Lon Nol soldiers, asking Mr. Voeun whether he ever heard on the radio at that time that Lon Nol soldiers had surrendered or retreated. The witness denied this, responding, "I did not listen to the radio broadcasts. We were engaged in fierce fighting. We only received instructions from the division commanders, and then we executed the order." When pressed, however, he acknowledged seeing Lon Nol soldiers raising the white flag of surrender, although he denied that his regiment had arrested any of them. Nor could Mr. Voeun shed light on the treatment of Lon Nol soldiers after their surrender, stating that these soldiers would be referred to the division commander and he did not know how they were dealt with after this point.

Next, Mr. Huot sought the witness's overall impression of Phnom Penh in the three days after its liberation. Mr. Voeun responded that it "was quiet. There were no people walking or loitering in the streets." In addition, he noted, the witness's soldiers "withdrew backward a little bit and we stationed somewhere west of Stung Meanchey" at this time. As to whether the witness knew who had been assigned to facilitate the evacuation, he stated, "I never received any order from anyone [in this regard], and I do not know how this [evacuation] was executed. I only heard that people were required to leave the city. As for those who left through my areas, we simply let them leave the city."

Mr. Huot then noted that in his first OCIJ interview, the witness had said that his soldiers withdrew entirely at this time. Asked why they did so, Mr. Voeun responded that "there was a direct instruction from Ta Mok that we had to withdraw our troops out of Phnom Penh within a week" and that "there was no meeting at the time. It was the direction of the division commander." At the time his soldiers were withdrawing, the witness added, the evacuation of Phnom Penh was in progress.

Referring to the same OCIJ interview, Mr. Huot noted the witness's testimony that the upper authority transferred his regiment to be stationed in Koh Kong province. Who was the "upper echelon," exactly? Mr. Huot asked. National Co-Counsel for Khieu Samphan Kong Sam Onn interjected that Mr. Huot might be confused as the witness testified that he assisted but did not provide security protection for Ta Soeung. Mr. Huot acknowledged this, and the witness then responded to Mr. Huot's earlier question, stating, "The 'upper echelon' in this context referred to both the commander of the division and the zone secretary."

Continuing his line of questioning on this topic, Mr. Huot noted that Koh Kong had been separated into the Southwest and West zones and asked the witness how it was that he had been able to lead his regiment to the West zone safely and easily. The witness responded that this was the arrangement of the division and zone, and then, when pressed, added:

Following the liberation, the southwest and west zones were not yet separated; this happened about five months after the liberation. ... Once the two zones were separated, there were armies attached to the two zones as well. They transferred me and my entire regiment to the West zone. I did not know whether or not where was consult at the upper level between the zone secretary and the center. I only knew up to the zone level. Once I learned that there were two armies attached to different zones, I was transferred to the West zone. At the time, they actually transferred one and a half regiments to the West zone, and we joined the zone military structure in the West zone.

Mr. Huot followed up by asking about the witness's statement to the OCIJ²⁶ that when the witness was transferred to the West zone, he was then promoted to become deputy chairman of his division and was tasked to guard the Cambodian coastline and fight with Thai soldiers. Mr. Huot inquired who commanded the witness to undertake such fights. Mr. Voeun responded:

I was designated to safeguard the coastline and there was a conflict with Thailand. I received orders from the division commander, and I know for sure that the commander of the division also received orders from the general staff. The reason why they ordered that attack was because Thailand encroached on Cambodian territorial waters. Particularly, the Thais fished in the Cambodian waters using illegal equipment. In the course of the fighting, no sides captured any soldiers. Thai soldiers used their air force to bombard some islands in Cambodian territorial waters. We used artillery to attack their planes. We eventually withdrew a week after that.

Protecting Khieu Samphan and Other Khmer Rouge Cadres

International Senior Assistant Co-Prosecutor Tarik Abdulhak then took over the questioning for the OCP, directing the witness's attention back to the period before the DK period in order to ask a few follow-up questions. First, he sought details of what the witness's role as a "representative of youth" involved. Mr. Voeun responded, "I provided them education about the situation in the country, about the lack of independence, and about the colonization economically by France. In

²⁶ According to Mr. Huot, the witness made this statement in his first OCIJ interview in response to the seventh question put to him by the investigators.

that way, the Cambodians did not enjoy independence. I disseminated such information so that the youth could understand about the current situation back then.” As to when the witness became a bodyguard for cadres, the witness stated that the cadres left Phnom Penh in mid- or late-1968 and that he provided them with protection.

After noting that Mr. Voeun’s birth village is in Kampong Speu province, Phnom Sruoch district. Mr. Abdulhak asked whether Mr. Voeun worked as a bodyguard for cadre in his birth village. The witness responded, “I provided protection to the cadres partly in my village and partly in other villages or provinces, namely Kampong Speu and Kampong Chhnang, which are two adjacent provinces.” Mr. Abdulhak next asked whether the witness was staying with Vorn Vet and Mr. Samphan when he was providing them protection. “I occasionally saw them. I did not stay with them every day. Sometimes I guarded the road for their journeys,” Mr. Voeun recalled. As to whether that meant that Mr. Vet and Mr. Samphan were staying at the witness’s birth village, the witness responded that “sometimes they stayed in Kampong Speu, but they did not stay in the village, they stayed in the big forest of Prey Thom. Also, in Kampong



Chhnang, sometimes they stayed at Oral Mountain.” The witness added that he provided protection to others as well, including “those who left Phnom Penh or those who could no longer stay in their villages. There were about 30 to 40 of them.” Mr. Abdulhak asked if those people included Hu Nim or Hu Yun, which the witness confirmed.

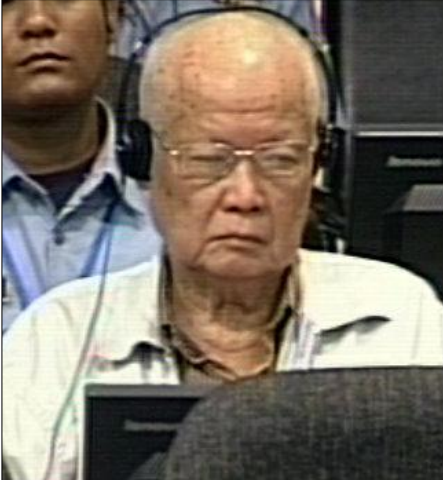
Mr. Abdulhak sought further details of the number of bodyguards, the bodyguard unit, and Mr. Voeun’s assignment to that unit. “In 1968,” the witness replied, “there was just one group of us, about 20, but by 1970, there were about 150 of us. ... The person in charge was Moeun. ... There was another person by the name of Bun.” Ta Mok assigned Mr. Voeun to the unit, the witness added.

Further Insights on Khieu Samphan

Mr. Abdulhak then asked Mr. Voeun of his understanding of Khieu Samphan’s role and activities during that period. The witness denied knowledge of Mr. Samphan’s formal role, stating that he only knew that Mr. Samphan was “patriotic.” As to Mr. Samphan’s activities, Mr. Voeun said that he “heard on the radio, when he [Khieu Samphan] had a conference with Samdech Ov [Prince Sihanouk], that he was in charge of the economy” and that “in the forest, he didn’t do much, but I heard on the radio that he was the head of the FUNK.”²⁷ Mr. Abdulhak sought Mr. Voeun’s clarification on this final point, to which the witness responded that Mr. Samphan “stayed at his place and I mine, so I could not tell you much about what work he did.”

²⁷ FUNK is an acronym for National United Front of Kampuchea.

At this point, Mr. Abdulhak inquired whether there were any meetings between Mr. Samphan, Ta Mok, and any other people whom the witness was protecting. “I could not tell you,” Mr. Voeun replied, “It was their business, and I was not involved” and was never asked to go to any meetings. Mr. Abdulhak then sought the reasons for the movements of Mr. Samphan between Kampong Speu, Kampong Chhnang, and Oral Mountain. “The movement was to avoid enemies from locating him,” the witness responded. Ta Mok made decisions about these movements, Mr. Voeun said, and in fact, “managed everything, the work as well as the organization of the forces.”



The witness stated that he provided protection for Mr. Samphan and others from 1968 through 1969. By 1970, he became a soldier. This prompted Mr. Abdulhak to inquire as to the whereabouts of the people the witness had protected at this point. “I did not know where Ta Mok took them,” Mr. Voeun responded, “because I left them and joined the military. I only focused on my work.” The witness then confirmed, when pressed on this point, that while he did not see them, he “thought they were still with Ta Mok at that time.”

Mr. Abdulhak noted that the witness had been promoted first to battalion and then to regiment commander and sought clarification on when these promotions occurred. Mr. Voeun responded that in 1973, he was still with the battalion, and was promoted to be regiment commander in 1975. When queried further by Mr. Abdulhak on this latter point, Mr. Voeun agreed that this promotion to regiment commander happened “sometime before the attack on Phnom Penh,” but he could not recall the specific month.

Fighting along National Road 5 and in Uddong

Referencing the witness’s testimony on his participation in fighting along National Road 5, Mr. Abdulhak asked whether Mr. Voeun was engaged in the fighting around Uddong. The witness agreed that he was, and when prompted by Mr. Abdulhak, added:

During the fighting along National Road 5, at the time, there were Southwest soldiers to the east of Krokor, up to Kampong Chhnang, and through to Uddong, under overall charge of Ta Mok and then Ta Soeung. We fought all the way to Uddong, but at that time, sometimes we won, and sometimes we lost. By the time we reached Uddong, we had many casualties by the bombardment and by the shelling from the artillery. ... I cannot recall the exact date [when we reached Uddong], but it was around 1973 and 1974. ... We fought all around during both the rainy and dry seasons.

Mr. Abdulhak then asked the witness whether he could recall what happened to the population living in Uddong. The witness replied, “In the battlefields along National Road 5, people fled to the liberated zone. They no longer stayed along that national road. There were only the Khmer

Rouge soldiers and the Lon Nol soldiers fighting one another, but I cannot tell you the exact date or the period.”

As for people from Uddong, Mr. Voeun agreed that they too had “fled to the liberated zones” during the battles for the city, but he could not guess the population of Uddong. He added, “There were those who took charge of the people living there at the area of the battlefield” but that he was not in charge of that. This prompted Mr. Abdulkhak to pose his final question for the day, as to whether anyone was in charge of taking people to the back of the battlefield and making arrangements for them. Mr. Voeun said that division commanders cooperated with village chiefs, and it was these chiefs who made preparations “to receive the people in the liberated zones. All I knew was that after Ta Soeung, those people would be brought to the liberated zone and then the chief of the villages there would take charge of them.”

President Nonn adjourned the hearing for the day. The hearing is due to continue at 9 a.m. on Thursday, October 4, 2012, with the continued questioning of witness Meas Voeun by the OCP and then the lawyers for the civil parties.