

International Counsel for Nuon Chea Andrew Ianuzzi came under fire at the ECCC on Tuesday due to, as characterized by President Nil Nonn, “repeated insolent comments.”

Further Insights into Military Structure and Challenges to ECCC Procedure

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Former Khmer Rouge military commander Meas Voeun completed his testimony in the Extraordinary Chambers in the Courts of Cambodia (ECCC) today. In his final round of questioning, Mr. Voeun testified on issues including Nuon Chea and Khieu Samphan’s roles in the Khmer Rouge, Samdech Norodom Sihanouk’s 1970 call to Cambodians to crush the Lon Nol traitors, and the evolution of leadership in the new North Zone.

The day’s proceedings were peppered with procedural challenges from the defense leveled at the Chamber in occasionally tense exchanges. The atmosphere in the Court ultimately culminated in the Trial Chamber issuing its second formal complaint against International Co-Counsel for Nuon Chea Andrew Ianuzzi to the Bar Association of Cambodia for unprofessional conduct.

¹ Cambodia Tribunal Monitor’s daily blog posts on the Extraordinary Chambers in the Courts of Cambodia are written according to the personal observations of the writer and do not constitute a transcript of the proceedings. Official court transcripts for the ECCC’s hearings may be accessed at <http://www.eccc.gov.kh/en/case/topic/2>.

Pronunciation and Spelling Difficulties

Prior to the resumption of witness testimony, International Co-Counsel for Khieu Samphan Anta Guissé remarked that in the hearing on October 8, Judge Lavergne referred to a record of a meeting held in a village on March 18, 1976, and stated that Koy Thuon attended that meeting.² However, she noted, the relevant alias listed on the document was Comrade Touch, which was not Koy Thuon's alias; his alias was "Tauch," and such pronunciation difficulties could lead to problems, the counsel contended. Trial Chamber Judge Jean-Marc Lavergne asked Ms. Guissé to check the spelling in both the English and French; she confirmed that she had, and the alias was "Tauch," which corresponds to Chek Chy, not Koy Thuon, she concluded.

Foreign Encroachments on the Cambodian Coastal Border

National Co-Counsel for Nuon Chea Son Arun was then permitted to resume questioning witness Meas Voeun, which took place before a sizeable audience of 250 university students from the Kampong Som campus of the University of Management and Economics, all sporting black neckties. Mr. Arun first asked the witness whether he knew if all the towns in the provinces were also under Khmer Rouge control by April 17, 1975, the day of the liberation of Phnom Penh. Mr. Voeun responded that he "only knew about the liberation of Kampong Chhnang provincial town, which was after the Phnom Penh liberation."

Mr. Arun asked the witness if he knew of other Khmer Rouge divisions or military structures staging attacks in provinces at the time. The witness testified that he knew only of the situation in Kampong Chhnang, which the Sector 32 soldiers were attacking at the time.

Mr. Arun moved to the issue of the witness's time in Koh Kong, asking for the ratio between land and islands in his area. Mr. Voeun testified that he "controlled part of Koh Kong, from the outer Koh Kong to the smaller islands." Outer Koh Kong was the largest island; the smaller islands included Koh Sdach, Kapi, Yornng, Pau, Sralaouv, Sannchaura, Chhlam, and Krousau. Other islands, which the witness named as Koh Rong, Tang, Poulou Wai, Pring, Arch Seh and Trol, were under the control of Division 3. The witness did not know who controlled inland Koh Kong, however.

The witness was asked further questions about the encroachment of Thai fishermen on Cambodian territorial waters, a topic discussed several times in the past few days. Mr. Voeun testified that he had heard from Division 3 soldiers of a Vietnamese attack and seizure of Poulou Wai, but he was unclear how Meas Mut, who the witness had previously identified as the commander of Division 3, defended the island. The Vietnamese had used a larger boat, anchored approximately three kilometers off the island, he recalled, and then sent smaller boats to attack and capture Poulou Wai Island. Mr. Voeun stated that the attack occurred in the very early morning, at approximately 4 a.m. or 5 a.m.

Mr. Arun at this point mentioned also an attack on Tang Island, which prompted International Senior Co-Prosecutor Tarik Abdulkhak to interject that the witness had not mentioned a Tang Island in his testimony. Mr. Arun responded that the witness had testified as to attacks on a number of islands. Directed by Trial Chamber President Nil Nonn to respond, the witness duly

² This document has the document number E3/230.

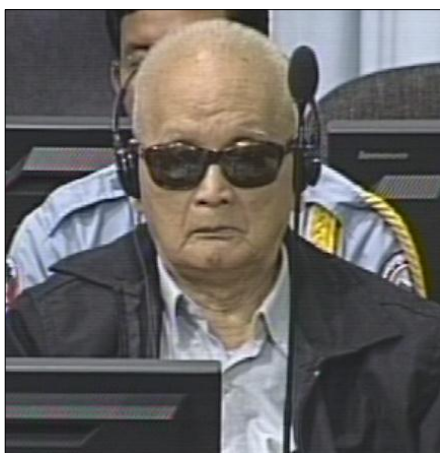
stated, “After the attack, they [the Vietnamese] remained on those islands, and I did not know when they removed themselves.”

Mr. Voeun further testified, “After their attack and seizure of those islands, no Vietnamese civilian came to live there. There were only Vietnamese soldiers, but I did not know ... when they withdrew their forces.”

Mr. Arun asked the witness whether he knew defendant Nuon Chea well and whether he ever attended a conference or meeting with Mr. Chea. The witness responded:

In 1975, of course the subordinates wanted to know about the upper level. For example, at my level, we rarely saw the leadership level except in the cases where meetings were organized and held at the zone level and if I was invited then I would know him. Otherwise, I did not know him well. But I of course knew of his name. ... I attended [meetings with Nuon Chea] twice; once was in Longvek and another was in Kampong Speu. However, as for the meeting in Kampong Speu, I was instructed by the division commander that the meeting would last for five days and that Uncles would attend including Uncle Pol Pot and Uncle Nuon Chea, as well as Ta Sy, but when I attended that meeting, I only saw Uncle Pol Pot, Ta Sy, and Ta Pall. I did not see Uncle Nuon Chea.

International Co-Counsel for Nuon Chea Andrew Ianuzzi rose to continue questioning on the part of his team. He first sought details as to the witness’s living arrangements. Mr. Voeun testified that he currently lives in Thmar Dekkeh village in Banteay Meanchey province. He has lived there since the United Nations Transitional Authority in Cambodia arranged the first national elections, he recalled. Prior to this, he first lived in Boeung Trakuon at Chhatt Mountain near the Thai border. Then, from 1983, he lived in Refugee Camp 8 or Ta Ngok, also located near the Thai border. He then moved to Keng Va Refugee Camp, before heading to Thmar Pouk. As he did not have land to live in the latter location, he moved to another location. Mr. Ianuzzi sought the witness’s view on whether it was fair to say that he was familiar with the Thai border. The witness confirmed this.



Mr. Ianuzzi asked Mr. Voeun whether he had ever visited Battambang. The witness confirmed this. Asked about the distance between his home village and Malai town, Mr. Voeun could not say exactly but estimated that the distance was approximately 100 kilometers. He also stated that he had previously visited that town.

Mr. Voeun confirmed, under questioning from Mr. Ianuzzi, that his own personal knowledge of military structures did not extend beyond the zone level; that he did not know whether Nuon Chea attended zone congresses; and that he also personally did not know if Mr. Chea was a member of the general staff. At this point, Mr. Ianuzzi sought to note,

for the record, that a question in the witness’s first Office of the Co-Investigating Judges (OCIJ)

interview³ relating to this issue had raised some problems in the testimony on Monday, October 8, and had involved, Mr. Ianuzzi asserted, “at least two instances of prodding.” “I know the chamber has a preference for certain legal fictions,” he added, including asking the witness at the beginning of their testimony whether they adopted their prior OCIJ statements, but, Mr. Ianuzzi contended, it was rarely the case that those statements reflected reality.

Mr. Abdulhak objected at this point to Mr. Ianuzzi “engaging in testifying and making submissions” halfway through the witness’s testimony. He referred to the Chamber’s decision from March 13, 2012,⁴ which gave the parties guidance on challenges to the testimony of witnesses and allegations of inconsistency between the audio recording of an interview and the written record of interview. However, Mr. Abdulhak added, reading from the document, it was necessary for the parties to note these concerns with appropriate specificity; obtain the transcripts in a timely manner and place them on the case file; and then take the Court to the relevant transcript paragraphs while questioning a witness.

Mr. Ianuzzi countered that this would be an “incredible burden on the defense”; that the Extraordinary Chambers in the Courts of Cambodia (ECCC) had an obligation to place accurate transcripts on record; and that the defense did not have that kind of time, particularly in light of the changing Court schedule.

Mr. Ianuzzi then reverted to questioning Mr. Voeun. After recapping the witness’s rapid rise through the ranks of the Khmer Rouge military, he sought the witness’s confirmation that between 1975 and 1978, Mr. Voeun was operating as a military commander in the West Zone without contact with the Center. Mr. Voeun confirmed this and stated that he “had nothing to do with the senior leaders; I had no contact with the senior leaders.” He added that his commander told him not to leave his base. Mr. Ianuzzi asked for the witness’s explanation of his career trajectory in the Khmer Rouge military. In response, the witness stated:

In reality, I did not rise to the positions more rapidly. I was promoted as the deputy commander. I had been assigned this new task after I had been severely injured. The position was not as a full rights deputy commander of the division. I was tasked with assisting the deputy commander of the division who had been hospitalized, who got injured in battle and could not perform his duty very well. I was called in to help him while he was not doing his job completely. ... In my capacity as so-called deputy commander of the division, it was a brief position, I didn’t take charge ... for a long time, and I was only in charge of a small fragment of geographical locations in Koh Kong province. That was all.

The witness stated that it was correct to say that he did not have many responsibilities despite his fairly senior position as deputy commander.

Roles of Certain Khmer Rouge Leaders

At this point, Mr. Ianuzzi asked the witness whether he recalled his discussion in the previous day’s testimony of the activities of Meas Mut, which the witness confirmed, and then, whether

³ This record of OCIJ witness interview has the document number E/434.

⁴ This Trial Chamber decision has the document number E142/3, and paragraph 12 is the section discussed here.

the witness was familiar with a person named Sou Met.⁵ Mr. Voeun confirmed that he knew of the name but did not know of the functions of this person. He then stated that he “did not have the rank as that of Mr. Meas Mut. I was much inferior to him. Meas Mut controlled a naval division, and I was far below his rank.”

Mr. Ianuzzi turned to the subject of Ta Mok. The witness testified that Ta Mok was the first person he knew in the resistance movement and that Ta Mok had recruited him to work in the jungle. The witness “learned that [Ta Mok] was a leader of the resistance movement, and I also saw him going everywhere; wherever I went, I would see him.”

Mr. Ianuzzi then read out a question posed to another witness in Case 002/1, and that witness’s answer:

“Mr. Witness, about the middle of that page, you were talking about zones, and you said, ‘Each zone had a leader like a warlord.’ ... What does that mean to you?”

“Warlord – I referred to Ta Mok, because they – he killed cadres from the Southwest. ... Rather, he really brought cadres from the Southwest to kill others ... in other zones.”

The counsel inquired of Mr. Voeun whether Ta Mok acted as a “warlord,” in that he “had a great deal of personal power, authority and autonomy.” Mr. Abdulhak interjected at this point, seeking clear references. Mr. Ianuzzi duly provided these details⁶ and repeated his question to the witness. Mr. Voeun paused for some moment but then confirmed that Ta Mok:

Enjoyed some kind of high authority, absolute power, and he could make any decision on his own. Practically, whatever orders he had rendered to me, I had to follow them without condition. ... By 1975, his power increased. He could remove any leaders ... of his own accord. I always saw him, I always saw Ta Mok. At some point, he removed his own forces for the purpose of work, education, or tempering. Ta Mok would do that himself.

Challenges to Procedure from the Nuon Chea Defense Team

Mr. Ianuzzi sought to put some factual propositions to the witness but was interrupted by lengthy technical difficulties. Upon the resolution of these issues, Mr. Ianuzzi prefaced his subsequent questions first by emphasizing that the witness should base his responses on his own knowledge and not speculation. Mr. Ianuzzi then asked whether the witness was aware that Ta Mok and Meas Mut had been identified as having “directly, without any reference to the Party Center, overseen executions carried out by their subordinates.” Mr. Abdulhak objected at this point that the question was not in its proper form; it needed further details and references to specific documents.

⁵ Sou Met was reportedly head of the Khmer Rouge air force.

⁶ The relevant document is a trial transcript from July 31, 2012, and has the document number page 73, lines 5 to 16, E1/99.1.

Mr. Ianuzzi responded that these were his instructions and that ideas “exist in the world ... separate and apart from documents.” Surely, he asserted, this was the point of witness testimony and an idea did not need to be put in a document to have an existence before the Trial Chamber, particularly in view of the fact that the Court would have a document hearing next week and there was a live witness before them now.

The Trial Chamber judges huddled in around their translator, discussing the objection for several minutes. The president then gave the floor to Trial Chamber Judge Silvia Cartwright to pronounce the Chamber’s ruling. She stated that the Chamber agreed that:

A question that is not based on some material or witness statement in this court that cannot be tested by the Court is not admissible. Ideas, as you express them, are insufficient. The court can operate only on evidence. Consequently, if there is a prior witness statement that has been heard or examined in this Court or a document that has been put before the Chamber, these are all viable bases for putting a question to a witness. Instruction from an accused cannot be given much weight unless the accused chooses not to exercise his right to remain silent and makes himself available for questioning on that topic.

Mr. Ianuzzi began to say that that was an absolutely incorrect statement but was cut short by Judge Cartwright. Mr. Ianuzzi insisted on commenting, however, that in this case, “we might as well have this trial on paper” and sought guidance on the Chamber’s authority for its ruling. However, after Judge Cartwright cut Mr. Ianuzzi off again, he stated, “I obviously am being forced to abandon my next five ... relevant questions,” at which point the president interjected that if Mr. Ianuzzi had no further questions, he should be seated.



Apparently not done with his examination, Mr. Ianuzzi remained on his feet and directed the witness to a document containing a statement that read: “We talk with Judge Nil who says that he’s upset by people’s lack of faith in the justice system. ... He admits that yes, he does take bribes, of course, but only after a case is over.”⁷ President Nonn interjected at this point, with a smile, that the Chamber had already ruled on this matter; that the Nuon Chea defense had already appealed that decision; and that they could not raise the matter again. Moreover, Mr. Ianuzzi’s questions were not relevant to the facts or his client, the president concluded. Mr. Ianuzzi qualified that his team did not appeal that decision.

Moving on, Mr. Ianuzzi asked the witness if he was familiar with a person known as Ta Cheam. The witness confirmed this, and said that “Ta Cheam did not have a significant role to play. That’s the Ta Cheam that I know.” Mr. Ianuzzi asked the witness to which Ta Cheam the witness was referring, but Mr. Vooun instead turned the question around and asked Mr. Ianuzzi the same. Mr. Ianuzzi stated

⁷ This document has the number E5.

that the person he had in mind was also known as Pea Pum or Ro Chonthon. The witness indicated that he was thinking of a different Ta Cheam.

Finally, Mr. Ianuzzi asked whether Mr. Voeun knew whether the treatment of human rights defender and political activist Mam Sonando in the domestic courts had anything to do with “the fact that his radio station had the courage to publicize news about a complaint lodged against Hun Sen at the Int—.” The president cut off Mr. Ianuzzi at this point. Mr. Ianuzzi nevertheless attempted to finish his sentence, and began stating that “at the International Criminal Court accused of cr—.” Judge Cartwright appeared to be motioning to President Nonn during the statement, and then the president interjected that Mr. Ianuzzi’s question was irrelevant and that the witness should not respond. Before sitting down, Mr. Ianuzzi added one final comment, quoting from Oscar Hammerstein’s Broadway musical *South Pacific*, “There’s nothing like a dame,”⁸ presumably an allusion to Judge Cartwright, who has the title of Dame Commander of the Order of the British Empire.

Allegations of Witness Coaching against the Office of the Co-Investigating Judges

The floor was then given to the International Co-Counsel for Ieng Sary Michael Karnavas to examine the witness. Mr. Karnavas referred in particular to the question put to the witness by the OCIJ in one of his witness interviews⁹ in relation to the S-21 confession of Chou Chet. Mr. Karnavas asked Mr. Voeun whether the investigators actually showed the witness the confession, or whether they only referred to it. “They read it to me,” Mr. Voeun responded. Mr. Abdulhak objected at this point that “offhand comments” and “quasi-submissions” about OCIJ interviews had no place here and that there was another process for that.

Mr. Karnavas noted this objection and stated that he had wanted to make the point in light of the discussion of the use of S-21 confessions in the ECCC hearing on October 8. Returning to the question, the witness elaborated that the investigators briefly read from the confession of Chou Chet *alias* Ta Sy on the smashing of enemies.

Mr. Karnavas noted that the interview started on 10:21 a.m. and finished at approximately 5:30 p.m., or approximately five hours and 10 minutes, whereas the interview tape was only two hours and 40 minutes in length. Mr. Abdulhak objected at this point, stating that the question made an assumption that there were five hours of missing tape, and arguing that there are a number of possible explanations for the apparent difference between the time stated in the record and the missing tape. This question could not be “seriously put to the witness as a fact for him to comment on,” he concluded. Mr. Karnavas responded that he was dealing with what he had been provided, adding that “he was there, we were not. I don’t know why the Prosecution is scared of what the witness has to say.”

⁸ Mr. Ianuzzi initially erroneously attributed this to the composer Richard Rodgers, but corrected this later in the hearing.

⁹ This record of OCIJ witness interview has the document number E3/80, and the relevant ERNs are 00486472 (in Khmer), 00509787 to 88 (in French), and 00491657 (in English).

The Trial Chamber judges again conferred and sustained the objection by the Office of the Co-Prosecutors (OCP). President Nonn added that any question concerning the potential nullification of OCIJ procedures was inconsistent with the laws before the Court, and he directed the parties to put questions to the witness in Court today.



Mr. Karnavas noted that they were not seeking nullification and that they were “entitled to question the process.” The president stated that the Chamber also reserved the right to instruct the witness not to respond to questions that are not directed at ascertaining the truth or are repetitive. Mr. Karnavas asserted emphatically that when questions were put to the witness regarding his testimony, those questions went towards the ascertaining of the truth.

Mr. Karnavas went on to address the witness, noting that he had been provided with a copy of the interview that the witness gave and that at approximately one hour and 26 minutes into the tape, there was a reference to the Cambodian investigator having shown the witness the *Revolutionary Flag* magazine in the morning but that there was no prior reference to this in the tape. Accordingly, Mr. Karnavas asked whether, prior to the commencement of the recording, the witness was shown the *Revolutionary Flag* or any other documents in preparation for his testimony, before

being questioned on tape. Mr. Voeun responded:

[The investigator] went to my home and I was interviewed, and I was read out some documents to brief me on this. I do not remember whether the *Revolutionary Flags* were also read out to me, but I remember that he read out some short documents to me, and I do not remember the details of those documents.¹⁰

Mr. Karnavas asked whether during the interview, there was a woman next to Mr. Voeun helping him to answer some of the questions. The witness responded that his wife sat with him, listened to the questions, and would “at times, remind me of my recollection of the events.” This concluded questioning from the Ieng Sary defense team.

Events and Personalities Prior to the Fall of Phnom Penh

After the adjournment, the president gave the floor to National Co-Counsel for Khieu Samphan Kong Sam Onn. Mr. Sam Onn first sought details on the witness’s involvement in the *coup d’état* prior to 1970, and in particular, his reasons for joining the revolution. The witness responded:

In 1968, there was a cadre who ... educated me so that I would be aware of the situation in the country, that we were one of the countries which lacked

¹⁰ This OCIJ interview transcript has the document number D369/7.2.

independence. ... Such education was done quietly ... secretly, in the forest, so that we would be aware of the revolution and the leadership of Samdech [Norodom Sihanouk]. ... Then I was invited by [the cadre] to relay this knowledge to other youth.

Mr. Sam Onn queried the witness as to the identity of the Angkar who had assigned the cadre to this task. Mr. Voeun replied that there was no Angkar at that time. As to when the witness met Khieu Samphan for the first time, the witness responded:

It was in around the middle of 1969. ... I listened to the radio broadcast from Phnom Penh. It talked about the meeting of the congress and that Khieu Samphan had a conflict with Samdech Sihanouk and maybe for that reason that he could no longer live in Phnom Penh. He left, and the cadre instructed me to go and receive him along National Road 4; ... around 10 or 11 p.m. ... I received him with other cadres ... and then we escorted him to the forest.

The witness added that the cadre who went with him was named Moeun and was from Talat village. The incident occurred “a little while” after Khieu Samphan had left Phnom Penh, he said. At the time, Mr. Voeun went on, with Mr. Samphan seeming to listen carefully though expressionlessly, the witness’s duty was to escort Mr. Samphan to a location where the enemy could not find him.

Next, Mr. Sam Onn asked the witness about his level of contact with Mr. Samphan. At first, the witness did not have an answer to this question, though when pressed, he said that “other youth also joined together but when [Mr. Samphan] was escorted to the safe location,” they all left for the outer perimeter to guard the road.

At this point, Mr. Sam Onn sought further insight into Ta Mok and his strategy. The witness testified that “Ta Mok was the one who ... gave instructions before Khieu Samphan was moved elsewhere. The instructions would be given to Ta Moeun, and Ta Moun would be tasked with ... [escorting] people to safety.” These events happened from the first day that “Khieu Samphan went to the forest,” Mr. Voeun recalled.

Mr. Sam Onn sought further clarification from the witness as to whether Ta Mok had a duty to provide protection to Khieu Samphan after Ta Moeun. Mr. Voeun replied, “Ta Mok already went to the forest and Ta Moeun received orders from Ta Mok ... and organized the receipt of Khieu Samphan.” Ta Moeun had left for the forest and then Mr. Samphan followed, Mr. Voeun clarified; Mr. Samphan met Ta Meoun and the witness and was then taken to meet Ta Mok.

Regarding Mr. Samphan’s role while in the forest, the witness stated, “At that time, we did not engage in any work; the main thing for him to do was not being located by any authorities from Phnom Penh.” As to the possible motivation for such a search by Phnom Penh authorities, the witness testified that on the radio, “Samdech Sihanouk scolded him, was looking for him, and actually wanted to behead him.” The witness added that as he recalled, there was a seven million riel bounty for Mr. Samphan’s capture, and that “after Khieu Samphan left [Phnom Penh], Hu Yun also left, but I did not receive Hu Yun.”

Mr. Sam Onn questioned why the witness did not inform the Phnom Penh authorities about Khieu Samphan's whereabouts. The witness responded, "The authorities were very strict back then. ... If I made any accusation regarding political tendencies, there could be complications. I heard Khieu Samphan saying that Samdech caused him trouble and put a price on his head."



Next, Mr. Voeun testified that he provided protection to Khieu Samphan from 1968 to 1970, when the *coup d'état* took place. After that, the witness did not have any further contact with Mr. Samphan because he "became a soldier in the mobile unit."

Referring to the witness's testimony on October 4, 2012, Mr. Sam Onn inquired how the witness know about the transmission of information via radio from the battlefield to Mr. Samphan, after the *coup d'état* took place but prior to 1975. Mr. Voeun responded, "Before or after 1970, I did not make any report to Khieu Samphan. In 1975, when I was transferred to Sector 103 in Preah Vihear, [Mr. Samphan] sent me a telegram talking about the situation of his relatives. I did not report to him during the combat period."

As to Mr. Samphan's role before the *coup d'état* and 1975, the witness did not know, but stated that he "listened to the radio by the FUNK¹¹ and heard that he was the head of the FUNK." Next, Mr. Sam Onn noted the witness's earlier testimony in the Trial Chamber in which, Mr. Sam Onn said, he witness had stated that Mr. Samphan was the leader of something with the term "Democratic" in the title. The witness agreed this was correct and stated that Mr. Samphan was the head of the FUNK and represented Democratic Kampuchea (DK).

At this point, Mr. Sam Onn sought the witness's testimony on the existence of any other resistance units in the forest. The witness disclaimed any such knowledge.

Mr. Sam Onn asked Mr. Voeun what FUNK was like. The witness replied that as he knew, it "was meant to gather forces from all walks of like to join hands and to liberate the country, and the nation, indeed." He was then asked the identity of the senior leader of the FUNK, to which Mr. Abdulhak objected that this question had already been asked and the witness had answered that it was Mr. Samphan. Mr. Sam Onn indicated that he was asking for information about any other leader. The witness said he learned that "after the *coup d'état*, there were forces led by Samdech Norodom Sihanouk for resistance purposes."

Samdech Sihanouk's Call to Arms

The next topic for discussion was how the resistance movement in which the witness participated was related to the movement of Samdech Norodom Sihanouk. Mr. Voeun responded, "In 1970, there were the joint forces." When pressed, the witness clarified that he "did not have any contact

¹¹ FUNK stands for the National United Front of Kampuchea.

with the former king because [Sihanouk] had been abroad, but he made an appeal from a foreign country for his people to rise and fight the Lon Nol regime.”

Ms. Guissé continued with the questioning session for the morning. She first sought the witness’s clarification as to whether he noticed, in the *maquis*, more people joining the resistance immediately after the *coup d’état* in 1970. The witness agreed with this, noting that Samdech Sihanouk’s appeal “convinced people from across the country, from Kampong Speu to Battambang, to go to the jungle ... the *maquis* jungle, and liberate the country. A lot of people joined because of that ... about 30,000 people.”

Ms. Guissé turned to the issue of specific terminology which Samdech Sihanouk used in his appeal. She read from a record of his appeal dated March 23, 1970,¹² as follows:

Millions of Khmer people within Cambodia and thousands of Khmer people outside of Cambodia will soon not fail to raise the standard of revolution against the Lon Nol revolutionary clique including Siek Matak, Cheng Eng, and against his masters, the American imperialists. All of the patriotic Khmers will crush these traitors and chase their accomplices and U.S. masters from the country. After our victory, our patriots will build a new Kampuchea and the power of this new Kampuchea will always be in the hands of the hardworking and progressive people, who will be given a radiant future where social justice, equality, and fraternity among all Khmer will prevail.

Ms. Guissé first asked the witness if this declaration sounded like the declaration of Samdech Sihanouk. The witness confirmed that it did, but stressed only “partly” so, because he did not remember the full message. Ms. Guissé asked whether what the Lon Nol leaders said was similar to what Samdech Sihanouk said. The witness confirmed that it was.

Ms. Guissé then read a second excerpt from Samdech Sihanouk’s declaration, as follows:

In the context of this struggle, I am asking all of my children (compatriots), servicemen and civilians who can no longer tolerate the undue injustices of the traitors and who have the courage and who feel patriotic about liberating our motherland to join the resistance and fight our enemies. For those of you who are already armed, or those who have received military training, I will send you ammunition and new weapons in a timely manner. Should you not want weapons but wish to receive military training, I will make arrangements to send you to the military academy of the United National Front of Our Kampuchea ... at a safe distance from the enemy.¹³

Mr. Voeun could not recall this portion of the declaration. Ms. Guissé inquired whether, when the witness joined the resistance in 1970, he met soldiers who had come to support Samdech

¹² This document, which was from the German political archives, is entitled “Solemn Declaration of Samdech Sihanouk” and has the document number D359/1/1.1.1 and the ERNs 00535853 (in French), 00851605 (in Khmer), and 00852374 (in English).

¹³ The relevant ERNs are 00535855 (in French), 00851607 (in Khmer), and 00852375 (in English).

Sihanouk. The witness replied that he did. Ms. Guissé asked if the witness met any former Lon Nol soldiers who joined in response to Samdech Sihanouk's appeal. Mr. Voeun confirmed this, recalling he had met a soldier who was in a unit led by a former Lon Nol army major.



*Khmer Rouge soldiers posted near Phnom Penh before the liberation of Phnom Penh.
(Source: Documentation Center of Cambodia)*

Witness's Transfer from Koh Kong to Preah Vihear

Ms. Guissé moved to a new line of questioning relating to the witness's time in Preah Vihear. She sought Mr. Voeun's insight on the sequence of events of the witness's journey from Koh Kong to Preah Vihear and whether, at the moment when Mr. Voeun left Koh Kong, he knew what his next assignment would be. Mr. Voeun denied this, although he recalled that he was told he would be joining a trip to Phnom Penh. The head of the witness's division in Koh Kong, Soeung, ordered the witness via telegram to leave Koh Kong; in that telegram, Mr. Voeun was told to "only meet [Soeung in Prey Nub] first before leaving," he finished.

Ms. Guissé then advised, following an inquiry from the president, that she would need a further hour or 90 minutes to complete her questioning. The judges conferred and advised that Mr. Voeun's testimony would continue in the afternoon, and, time permitting, they would assign Trial Chamber greffiers to read the Closing Order paragraphs relevant to the execution site Tuol Po Chrey.

At this point, Mr. Ianuzzi made a few quick submissions. He initially corrected his earlier reference to the Broadway musical *South Pacific* and then moved to remind the Trial Chamber of his client Mr. Chea's earlier application to make a statement on the previously read Closing Order paragraphs. The president replied that Mr. Chea would have this opportunity tomorrow. Mr. Ianuzzi and Mr. Arun consulted their client, who removed his sunglasses for the occasion, as to whether he wished to waive his right to be present in the afternoon's proceedings. Mr. Ianuzzi reported that their client did wish to do so, a request which the president granted.

The afternoon session resumed before a new audience of approximately 60 villagers from Batheay district in Kampong Cham province, more than half of whom appeared to have been born before or during the DK period. Ms. Guissé returned to her questioning, first questioning the witness with respect to his meeting with Pol Pot and Ta Soeung at Ounalom Pagoda on October 4, 1978. She noted that, according to the witness's prior testimony to the Court, there were several other commanders at the meeting. She inquired as to the reason these commanders attended the meeting. Mr. Voeun clarified that he:



Presumed these people represented the divisional commanders from the East Zone. Pol Pot pointed to places on a map with a stick. He talked about the enemy situation along the eastern border and that there was fierce fighting in certain places, moderate fighting in other locations, and in other locations, there were only skirmishes. While he was pinpointing the map on the wall, he talked about the enemy situation for about two hours.

After the session concluded, there was a second meeting phase in which the witness met only with Pol Pot and Ta Soeung, Mr. Voeun recalled, during which he was instructed to go and observe the situation in Preah Vihear. He was not given instructions as to reporting, and Pol Pot did not tell him how much time he needed to spend there, the witness added, noting that he first stayed in Siem Reap for three days before traveling on to Preah Vihear.

Next, Ms. Guissé sought information from the witness regarding the level of detail Pol Pot conveyed about the situation in Preah Vihear. Mr. Voeun responded, "He only gave me his verbal instructions. I did not know whether he had received reports from somebody else before he briefed me."

Ms. Guissé pressed the witness as to whether or not it would have been logical for the witness to be instructed as to reporting on the situation. At this point, Mr. Abdulhak objected that Ms. Guissé had described the witness's mission as an "investigation mission" but that, as the witness had not used these terms, Ms. Guissé should be more precise in her word choice. Ms. Guissé raised her hand in seeming exasperation and then pressed the witness to clarify the nature of his mission to Preah Vihear, including by reading back the witness's prior testimony on this point. Mr. Voeun confirmed that he was asked:

To investigate and monitor all the situations back there. ... He said that people were arrested and people were starving, and there was a feeling of being intimidated over there. After I grasped the sit, I did not report to Pol Pot, because Ta Soeung was with me and I clarified the matter with Ta Soeung, and Ta Soeung was there so he could clarify the situation, and it was likely that Ta Soeung would have reported on the matter by himself to Pol Pot.

How did the witness understand Pol Pot's instructions? Ms. Guissé continued. The witness reiterated his earlier testimony and emphasized that he was not instructed as to reporting, presumably because Ta Soeung was with him.

Ms. Guissé referred to the witness's earlier testimony that he had observed mosquito nets and blankets eaten by termites and also that the witness had been tasked with checking on the successful delivery of supplies from Phnom Penh to Preah Vihear. The witness confirmed that the mosquito nets and blankets constituted part of those supplies and that salt, sugar, and other commodities were also part of the intended supply delivery.

The New North Zone and Communications

At this point, Ms. Guissé referenced Mr. Voeun's testimony about a meeting held in Siem Reap during which Ta Soeung was nominated as the head of the new North Zone. Asked about the precise point in time in which the meeting took place, Mr. Voeun responded that the meeting comprised of Ta Soeung, Ta Mok, and Pol Pot and was held around 7 a.m. The witness confirmed that he did not participate.

Ms. Guissé asked Mr. Voeun whether he went directly to Siem Reap from Phnom Penh. The witness confirmed this. She then sought the witness's confirmation about whether Pol Pot spoke about the arrest of Khieu Samphan's in-laws at the Ounalom Pagoda meeting. The witness denied this, adding that the meeting in Siem Reap in which Ta Soeung was present took place before the release of Mr. Samphan's sister-in-law.

Ms. Guissé referred to a portion of the witness's first OCIJ witness interview, in which the witness stated:¹⁴

During the meeting in Siem Reap, there was Ta Pall, Ta Mok, Ta Say, and Ta Soeung. I was not attending. After the meeting, Ta Soeung told me about the change of army commanders and the chairman of the North Zone. Regarding this, Ta Soeung was nominated head of the new North Zone of Siem Reap province and I went to control Sector 103 in Preah Vihear province.

Ms. Guissé asked when Ta Soeung told the witness that he had been nominated to head Sector 103. Mr. Voeun said that this occurred the next day and that Ta Soeung said he needed to go there. As the witness was unfamiliar with the road, Ta Soeung accompanied the witness on his journey to Preah Vihear as far as Ro Veang. The witness was instructed by Ta Soeung "to go and receive my duties there [in Sector 103]. But he [Ta Soeung] did not tell me specifically that I would be appointed as the chief of Sector 103." The witness added that he only knew of his specific duties in Sector 103 when the Vietnamese arrived in January 1979.

Ms. Guissé sought the witness's clarification on this matter, at which point Mr. Voeun said that he was told in August 1978 about his duties. Asked to give more precise information about the meeting in Siem Reap in which Ta Soeung was nominated as chair of the North Zone, the witness testified that this meeting took place in August 1978, the day after the witness arrived in the area. Ms. Guissé asked Mr. Voeun how he introduced himself to the people in the Sector 103

¹⁴ With the ERNs 00455270 (in French), 00418521 (in Khmer), and 00421072 (in English).

when he first arrived. The witness stated that he did not mention a capacity and that he “was only there to grasp the situation ... to inspect the living conditions, and also the supplies that would be delivered to the people, and how these supplies would be managed.”

After inquiring about the situation and supplies, the witness went on, he reported to Ta Soeung, who went to Ro Veang to see the witness for one day, approximately one week after Mr. Voeun had arrived in Preah Vihear, and he briefed Ta Soeung on the situation. What Ta Soeung did about the situation the witness did not know, because Ta Soeung returned to Siem Reap.



At this point, Ms. Guissé turned to the release of Khieu Samphan’s sister-in-law, asking whether this release occurred before or after the witness arrived in Preah Vihear. Mr. Voeun responded that it happened before. This prompted Ms. Guissé to refer again to the witness’s statement to the OCIJ regarding the release of Mr. Samphan’s older sister-in-law Yiet.¹⁵ Ms. Guissé asked who precisely went to see Mr. Samphan’s sister-in-law – the witness or Ta Soeung. Mr. Voeun responded that Yiet was only released after Ta Soeung made some inquiries.

Regarding the telegram from Mr. Samphan to the witness regarding Mr. Samphan’s relatives, the witness confirmed under questioning from Ms. Guissé that he was in Preah Vihear when he received it. If Mr. Samphan sent you that telegram, Ms. Guissé went on, did it mean that he did not know the situation regarding his relatives?

Mr. Abdulhak objected that Ms. Guissé was calling for the witness to speculate on Mr. Samphan’s state of mind. Rephrasing the question, Ms. Guissé asked the witness if he agreed that in Mr. Samphan’s telegram, Mr. Samphan asked whether Mr. Voeun had seen members of his family. Mr. Voeun responded that the telegram mentioned Mr. Samphan’s elderly parents only. “All he did was to instruct me to take proper care of his family members and to find out if they were in difficulty and if need be, I had to send them to Phnom Penh,” he recalled. Upon receiving this message, Ms. Guissé continued, did the witness understand that Mr. Samphan did not know what had happened to his family? The witness confirmed that this was his understanding.

Under continued questioning on this subject, Mr. Voeun testified that he received the telegram where Aeuy and Ol worked, noting that the telegraph machine was managed by Aeuy and Ol. He also confirmed that these two men told him about telegraphic communication problems with Phnom Penh, and added that he knew these two people were experienced in such matters. They informed Mr. Voeun that the connection with Phnom Penh was “disconnected,” he said.

Referring again to the witness’s OCIJ interview, Ms. Guissé quoted the witness as stating, “I reported to Khieu Samphan by telegrams which I wrote down the report and my name and Sector

¹⁵ This document has the number E4/434.

103 on paper for dispatch to Khieu Samphan. Then I ordered men named Ol and Aeuy to type the telegrams.” Asked if he knew whether this report was dispatched even though there were communication problems, Mr. Voeun replied, “Aeuy and Ol told me the message could not be communicated because of the line problem. They told me that the message was not sent out.”

Ms. Guissé referred to another of the witness’s responses to the OCIJ investigators about reporting to Mr. Samphan, namely that he reported to Mr. Samphan:

Because there was a telegram sent from Khieu Samphan to me instructing that I had to report about any situation to him. ... The contents of the reports were about how the living conditions of the people in the cooperatives were.

Noting that there was sometimes confusion in the translation of plurals and signatures from Khmer, Ms. Guissé stated that the witness’s testimony to the OCIJ investigators sounded as though the witness had sent multiple reports to Khieu Samphan. In response to Ms. Guissé’s request for more details, Mr. Voeun responded that he wrote to Mr. Samphan on “only one occasion” about Mr. Samphan’s relatives, but he had no idea whether Mr. Samphan received this report. At this point, the witness stipulated, when prompted by Ms. Guissé, that he stood by his testimony that he gave his report for Mr. Samphan to Aeuy and Ol to send out and that they told him it could not be sent due to communication problems.

Turning to Mr. Voeun’s functions in Sector 103, Ms. Guissé asked when the witness was first told that he was in charge of Sector 103. The witness seemed to respond in relation to Ta Soeung at this point, which prompted Ms. Guissé to seek further clarification on whether Ta Soeung had in fact been appointed at the time to the chairmanship of the new North Zone. The witness stated that there was no official pronouncement as such.

Mr. Voeun went on to say that he arrived in Sector 103 with approximately 10 soldiers accompanying him. Upon his arrival, Mr. Voeun stated, he “could not fulfill my military function as there were insufficient soldiers under my command. I was there for four months and there were only 10 soldiers under my command.” As such, during that time, the witness “built houses for the people at the districts where I could travel.”

Queried by Ms. Guissé about how many times Ta Soeung came to Preah Vihear, Mr. Voeun testified that Ta Soeung made two trips to Ro Veang, the first time to accompany the witness and the second time “due to the intensified situation at the border.” Ms. Guissé then sought the witness’s clarification on his testimony on October 8 that Ta Soeung was with him when they heard a Voice of America broadcast describing the entry of Vietnamese into Phnom Penh. The witness could not recall the approximate date. Ms. Guissé sought the witness’s confirmation on which of his hierarchical superiors he saw while in Preah Vihear. The witness confirmed that it was only Ta Soeung.

Sector 103 in the New North Zone and Khieu Samphan’s Role

Next, Ms. Guissé asked whether Sector 103 belonged to the new North Zone. Mr. Voeun responded that he did not know if it was under the new North Zone “under Nuon Chea or Khieu Samphan,” but he did know that the sector was autonomous. The counsel recited a portion of the

witness's first OCIJ interview regarding the reasons for the witness being assigned to Preah Vihear, in which the witness had stated: "Because Preah Vihear was the autonomous area directly controlled by the Central Committee. Ta Nuon Chea and Ta Khieu Samphan used to visit there." The witness also testified to the OCP, Ms. Guissé added, that he knew about these visits because he had seen photographs in the telegram office. The witness confirmed this and clarified that he saw the photos in question on the ground in the office in Tom Loab.

Following the mid-afternoon adjournment and an additional 10-minute delay, Ms. Guissé resumed her questioning of Mr. Voeun. In order to refresh the witness's memory on the date, Ms. Guissé read to the witness from the transcript of the October 8 testimony: "I did not know exactly when the Vietnamese attacked Phnom Penh, but I listened to the radio and heard that on January 6, the Vietnamese attacked Phnom Penh. At the time, Ta Soeung had spent the night at my place. I told him that the Vietnamese had entered Phnom Penh." The witness confirmed this point, although he qualified that he had been confused on the matter of the locations as between Preah Vihear and Siem Reap. Nevertheless, his account was accurate regarding the Vietnamese troops attacking Phnom Penh. Ms. Guissé accordingly sought the witness's confirmation as to whether this was Ta Soeung's second or third visit to Preah Vihear. Mr. Voeun responded that he had been confused concerning the Vietnamese attack and that:

He [Ta Soeung] took me on one occasion to Preah Vihear. He did not stay overnight there. ... On a second occasion, he also went there again. On that second occasion, I reported to him on the message I received from Mr. Khieu Samphan ... and he also had to return back on the same day. On the third occasion, the final occasion, he spent the night there. Perhaps I didn't make myself clear.

Ms. Guissé again sought the witness's clarification on the status of Sector 103 and whether anyone had told him this sector was under the direction of Mr. Samphan. Mr. Abdulhak objected, suggesting that counsel was putting to the witness certain facts in an incomplete way. He noted, for example, that further information was given by the witness in relation to the status of Sector 103 than that presented by Ms. Guissé.

National Lead Co-Lawyer for the civil parties Pich Ang also interjected at this point that the question was repetitive and the witness had already answered it. Ms. Guissé responded, emphatically and quickly, that the entire premise of her questioning was to clarify information and that it was improper to suggest that there had been an attempt to mislead. She was merely quoting excerpts of the transcripts and was not attempting to mislead the witness. The president did not sustain the objection and directed the witness to respond.

Mr. Voeun commented, in relation to whether, apart from statements by ordinary people, anyone else told the witness that Sector 103 was under the supervision of Khieu Samphan, that:

The majority of people learned about the leadership of Mr. Khieu Samphan, and I was informed by the head of the hospital, the chief of the district or province ... and some elderly people, after being asked, also spoke to me about this. So I received information both from the people, the hospital, and Chhet district.

Ms. Guissé asked the witness if he knew Khieu Samphan’s revolutionary name. Mr. Vooun responded, “Brother Hem” and noted that Mr. Samphan had been known as such since 1967. At this point, Ms. Guissé showed the witness a statement of Witness TCW 548 previously used by the OCP in their examination of this witness. When asked about the sectors in the new North Zone, Witness TCW 548 had said: “According to what I know, the new North Zone consisted of Sector 103, Sector 106, and the Kampong Thom region of the former zone.” As to whether this accorded with his understanding, Mr. Vooun stated that he could not recall this clearly.

This answer prompted Ms. Guissé to present another witness statement, of Witness TCW 637, to Mr. Vooun.¹⁶ This witness testified that “the autonomous Sector 103 was incorporated by the hierarchy into the new North Zone in the course of 1977.” She asked Mr. Vooun whether this reminded Mr. Vooun of his own experiences in 1978. Mr. Vooun responded that he did not know of such an announcement, or of the witness in question.

At this point, Ms. Guissé asked the witness about the rules governing telegram communication in the sector. The witness disclaimed any knowledge of this. Ms. Guissé presented a final document to Mr. Vooun, this time a statement by the Witness TCW 695,¹⁷ who had been the leader of a telegram unit. This statement noted, “Each sector had a telegram unit. If one sector wanted to send a communication to another place, the sector had to go through the zone.” The witness confirmed that this was correct. This completed Ms. Guissé’s examination and the testimony of Meas Vooun before the ECCC.

Execution of Lon Nol Soldiers at Tuol Po Chrey

To conclude the hearings for the day, the president instructed Trial Chamber Greffier Se Kolvuthy to read the relevant paragraphs from the Closing Order concerning the execution of Lon Nol soldiers at the execution site Tuol Po Chrey.¹⁸

Ms. Kolvuthy began with a reading of paragraphs detailing that during the DK, there had been a pattern of targeting former officials of the Khmer Republic (that is, the Lon Nol regime) for arrest and execution.¹⁹

Ms. Kolvuthy then moved to a description of the Tuol Po Chrey execution site,²⁰ which “was operational intermittently from late April 1975 to approximately 1977 during which large-scale killings of the ex-military and



¹⁶ This statement has the document number E3/425.

¹⁷ This statement has the document number E3/411 and the ERNs are 0424036 (in French), 003735110 (in Khmer), and 00390077 (in English).

¹⁸ The relevant document is the Closing Order for Case 002, and the relevant paragraphs are 205 to 209, 698 to 711, 975 to 977, 1105 to 1113, and 1191 to 1193. The Closing Order 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).

¹⁹ The relevant Closing Order paragraphs are 205 to 209.

²⁰ The relevant Closing Order paragraphs are 698 to 711.

civilian population were carried out.”²¹ Ms. Kolvuthy went on to detail the command structure of the execution site, arrests and executions there, and the estimate of between 2,000 and 3,000 execution victims at the site.

Next, Ms. Kolvuthy read Closing Order paragraphs detailing the involvement of each Case 002 defendant in the killing of former officials of the Khmer Republic, or Lon Nol regime.²² She noted in particular that each defendant would have participated in the formulation of the policy to target this group as a full rights member of the Central and Standing Committees (Nuon Chea),²³ the Standing Committee (Ieng Sary),²⁴ and the Central Committee (Khieu Samphan).²⁵

Second Trial Chamber Complaint against Mr. Ianuzzi

At this point, the president noted that the facts just read out would be included in segment 3 of Case 002/1. Before adjourning for the day, the president took the opportunity to address “repeated insolent comments” from Mr. Ianuzzi “criticizing [his] rulings.” Mr. Ianuzzi’s quoting of a musical by Rodgers and Hammerstein was “personally insulting,” the president said. Moreover, these comments, together with persistent questioning of the Chamber’s ruling, fell “way below the standard of professional conduct” expected in the ECCC and other courts. Accordingly, the Chamber would forward this complaint to the Bar Association of Cambodia, which would consider it together with the earlier complaint it made against Mr. Ianuzzi.

The president then adjourned the hearing. Proceedings in Case 002/1 will resume on Wednesday, October 10, 2012, at 9 a.m. with Nuon Chea’s response to paragraphs in the Closing Order that have been indicated to be relevant to segment 3 of Case 002/1, the execution of former Lon Nol soldiers, and the executions at Tuol Po Chrey. The Court will then begin a document hearing.

²¹ Paragraph 698.

²² The relevant Closing Order paragraphs are 975 to 977 (Nuon Chea), 1105 to 1113 (Ieng Sary), and 1191 to 1193 (Khieu Samphan).

²³ Paragraph 976.

²⁴ Paragraph 1107.

²⁵ Paragraph 1192.