



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS
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Case File N° 002/19-09-2007-ECCC/TC

5 September 2012
Trial Day 107

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

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INDEX

MR. NORNG SOPHANG (TCW-480)

Questioning by Judge Lavergne	page 3
Questioning by Mr. Kong Sam Onn.....	page 38
Questioning by Mr. Vercken.....	page 45
Questioning by Mr. Son Arun.....	page 65
Questioning by Mr. Ianuzzi	page 83

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. IANUZZI	English
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NORNG SOPHANG (TCW-480)	Khmer
MR. SON ARUN	Khmer
MR. VERCKEN	French

1

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

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

5 For today's proceeding, we will continue to hear the testimony of

6 this witness who will be questioned by the defence teams,

7 starting from Khieu Samphan's team first.

8 Before I hand the floor to the Khieu Samphan defence team, Ms. Se

9 Kolvuthy, could you report the attendance of the parties and

10 individuals to the proceeding.

11 [09.05.20]

12 THE GREFFIER:

13 Mr. President, all parties to the proceeding are present except

14 the national defence counsel for Ieng Sary -- that is, Counsel

15 Ang Udom.

16 And the Accused is present in the holding cell downstairs as he

17 requests to waive his direct presence through his counsel for

18 today's proceeding. The letter of waiver has been submitted to

19 the greffier.

20 As for the reserve witness after the conclusion of this witness

21 testimony -- that is, TCW-307 -- the witness is present in the

22 waiting room to be called by the Chamber. And to the witness's

23 knowledge, the witness has no relationship with any of the civil

24 party or any of the three Accused. The witness already took an

25 oath this morning. Thank you.

2

1 [09.06.37]

2 MR. PRESIDENT:

3 Thank you.

4 The Chamber will now decide on the request by the accused Ieng
5 Sary. The Chamber received the request by Ieng Sary, dated 5th
6 September 2012, through his counsel, to waive his direct presence
7 in the courtroom and instead to follow it through audio-visual
8 means from the holding cell downstairs.

9 Chhea Kuntheavy, the treating doctor of the Accused, has examined
10 him at the ECCC Detention Centre this morning and observed that
11 he is fatigued -- for only a slightest movement he feel dizzy
12 when stands up and he has to visit the bathroom frequently, and
13 recommends that the Chamber shall authorize him to follow the
14 proceeding from the holding cell downstairs.

15 And as the accused Ieng Sary himself requests to waive his direct
16 presence in the courtroom due to his health problem and as
17 observed and recommended by the treating doctor that he should be
18 following the proceeding from the holding cell downstairs and
19 that he can communicate with his defence team directly, the
20 Chamber grants the request to his waiving of the direct presence
21 and that he is allowed to follow the proceeding from the holding
22 cell downstairs through audio-visual means - that, applied for
23 the whole day proceeding.

24 [09.08.16]

25 AV Unit, you're instructed to link the proceeding to the holding

3

1 cell downstairs for him to follow.

2 Mr. Norng Sophang, the Chamber received information that you do
3 not feel that well due to your high blood pressure, but it is
4 your commitment that you expressed that you wish to continue to
5 testify before this courtroom. And if you think that you are
6 unwell and you cannot proceed, please make such a request to the
7 Chamber when the time comes and do not hesitate to do so.

8 MR. NORNG SOPHANG:

9 Thank you, Mr. President.

10 MR. PRESIDENT:

11 The floor is now given to Khieu Samphan's defence to put
12 questions to this witness.

13 [09.09.46]

14 However, before that, I'd like to give the floor to Judge
15 Lavergne, and the Khieu Samphan defence team may proceed after
16 Judge Lavergne.

17 QUESTIONING BY JUDGE LAVERGNE:

18 Thank you very much, Mr. President. Good morning, Mr. Norng
19 Sophang. I am Judge Lavergne. I have a few questions for you. I
20 want to thank you for all of your efforts to stay and to testify.
21 Your testimony is very valuable, and that's exactly why I wish to
22 elucidate some of the points you have raised.

23 Q. I wish to review with you a certain number of telegrams. The
24 first telegram is classified under document number E3/243 (sic);
25 I have a hard copy here which I can certainly make available to

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1 the witness.

2 [09.11.08]

3 Allow me to point out that a list of documents that is going to
4 be referred to today has been conveyed to all parties for ease of
5 references and as a matter of courtesy. This list contains the
6 ERN numbers of all of the documents. Therefore, if I can spare
7 myself of citing all of the ERN numbers each time I refer to a
8 document, this will help expedite the unfolding of this morning's
9 hearing.

10 Now, E3/244 is Telegram 16 that is signed by Chhon; it is
11 directed to Brother Pol and at the end of the second page there's
12 some information regarding those who were sent a copy of this
13 particular document. It is dated the 25th of January 1978.

14 Now, there seems to be some difficulties that arise from the
15 French translation. This document appears to have been cc'd to
16 Uncle Nuon, Brother Nan (sic), Brother Khieu, Office, and
17 Archive. Now, the first "Uncle" that is listed -- in the French
18 version, list all those recipients in the plural.

19 Now, you, sir, have the original Khmer copy, therefore can you
20 please tell me if "Uncle" is written in the singular or in the
21 plural?

22 [09.13.01]

23 The same question applies to the indication of "Office", because,
24 once again, in the French version, there is mention of "offices"
25 in the plural. Therefore, I wish to know whether this was

5

1 destined for Office 870 or several offices, in addition to 870.

2 Thank you.

3 MR. NORNG SOPHANG:

4 A. Thank you. Regarding the copy to "Uncle", "Uncle" here is in a
5 singular form, not in a plural form. It refers to Brother Pol --
6 that is, Brother Number One.

7 As for the "Office", the "Office" also is in a singular form; it
8 refers to only one office -- that is, the Office 870. It is not
9 just any other offices around Phnom Penh.

10 Q. With respect to Office 870, do you know exactly where Office
11 870 was located? Where was the place that Office 870 was housed?
12 Was it at K-1 or was it at another location? Do you know this? Do
13 you have any pieces of information that would allow you to say
14 that 870 was located at such and such an address?

15 [09.15.02]

16 A. I, myself, is not clear either on this issue. What I knew was
17 that after I decoded the message, the message then would be sent
18 to K-1.

19 Q. When we look at the list of the recipients to whom this
20 telegram was copied, there is "Uncle Pol Pot" and "Office". There
21 seems -- it would appear that this was destined for several
22 parties. Therefore, is Pol Pot "the Office"?

23 A. It is my understanding that for Uncle -- that is "Uncle" here
24 means one copy to Pol Pot and one copy will be maintained at the
25 office in addition to the one copy that was -- that is -- that

6

1 was sent or given to Pol Pot.

2 Q. This telegram was signed off by Chhon. You stated that it's
3 difficult for you to identify who Chhon is. But today are you
4 able to tell us who, exactly, was Chhon?

5 [09.16.53]

6 A. I did not know Chhon clearly as a person. However, as in
7 previous messages, the person who had the authority to report to
8 the upper level -- and in this particular instance it was a
9 telegram from the East Zone -- and also previous telegrams from
10 the Zone bear the name of Chhon. Chhon must be in the leadership
11 level at the East Zone.

12 Q. Therefore, is it possible that it was So Phim or is this not
13 certain? Could it be a possibility? I'm not asking you whether or
14 not you know this, but you think it's possible that it could have
15 been So Phim?

16 A. Yes, that is possible. As Your Honour knows, Brother Khieu --
17 they did not use the word "Son Sen", but they used alias Khieu or
18 Brother Khieu, and that referred to Son Sen and not Khieu
19 Samphan.

20 And as for Chhon, they would not use the exact name So Phim; they
21 could use the alias Chhon, which was known during the regime --
22 that is a possibility.

23 [09.19.06]

24 Q. Very well. Indeed this telegram does emanate from the East
25 Zone and it does provide a certain number of information with

7

1 respect to the situation at the border area, in particular what
2 is happening with Vietnam. Allow me to quote paragraph 3 of this
3 document -- and I quote:

4 "As for the people situation, it is in order. The people living
5 near the border were moved back to the rear and we are having the
6 study meetings continuously. Moreover, cleaning the elements of
7 the 'Yuon' enemy network and not allowing them to mix with good
8 people by following them and educating them separately." End of
9 quote.

10 Did you receive this type of document frequently or is -- there's
11 something -- is this a document that contained substance matter
12 that took you by surprise?

13 A. The content was about screening. And regarding this matter, I
14 received such content in a number of telegrams from various other
15 zones. The issue is that I didn't know how the screening was
16 conducted in any particular situation.

17 [09.21.03]

18 Q. I would just wish to specify that this is indeed telegram
19 E3/244; Khmer ERN numbers are 00001052 to 00001053; French ERNs
20 are 00634386 to 87; English ERNs, 00182755 to 56.

21 Let us now move to E3/243, this is telegram number 15, and I have
22 a hard copy here to hand over to the witness. I'll just cite the
23 ERN numbers: ERN numbers in Khmer are 00020938 to 40; French ERN
24 numbers are 00548911 to 13; and ERN in English are 00532795 to
25 96.

8

1 Now, once again, there seems to be some discrepancies between the
2 French and English versions of this telegram. In English it reads
3 as "To Respected and Missed Brother Par". In French it is
4 directed "To Respected and Greatly Loved Elder Brother".

5 Sir, can you please tell me what the Khmer says?

6 A. "To Respected Brother Par", here they used the alias "Par",
7 not Pol. But "Par" here refers to Pol or Brother Number One.

8 [09.23.22]

9 Q. Did Pol Pot have several alias names? Was he sometimes called
10 "Pol", "Par", or were there other ways of identifying Pol Pot?

11 A. During the period under the regime, the alias "Par" was
12 usually used by the East Zone. As for other zones, they usually
13 used the word "Pol" instead of "Par", and sometimes they did not
14 use "Par" or Pol, but they would just say "Respected and Missed
15 Brother". And the word "Brother" alone here referred to Brother
16 Number One and nobody was above Brother Number One.

17 Q. This telegram was sent by the same person, Chhon. Once again,
18 the telegram originates from the East Zone; it provides a report
19 on the situation at the border. And in paragraph 3, which is on
20 page 2 of this document, it reads as follows -- I quote:

21 "People movement: We organized the people and had them all
22 evacuated from the front. The troops were defending the front.
23 Regarding people's organization, we retrieved a large number of
24 people who were herded by the 'Yuon' enemy to be under their
25 temporary control and those who believed to be the 'Yuon'.

9

1 Currently, we have organized ourselves to have them returned to
2 the rear for re-education, grouping and screening." End of quote.
3 Is this a telegram that you would have decoded yourself or was it
4 sent to another service to be decoded? Do you have any
5 recollection with respect to this very specific telegram?

6 [09.26.02]

7 A. Regarding the East Zone, as they had frequent conflict with
8 Vietnam and the telegrams sent from this Zone were not the main
9 telegrams that my group were to decode. All those telegrams were
10 decoded at the inside, not by the outside team.

11 Q. Based on your knowledge, can you please tell us what you think
12 "re-education, grouping, and screening" mean? These are the terms
13 that are used in the third paragraph that I have just read aloud,
14 I'm referring in particular to the terms "re-education",
15 "grouping", and "screening". To your mind, what does this mean?

16 A. I could not explain precisely what these terms mean. I do not
17 want to make a presumption since I am uncertain and I decline to
18 comment on these terms, because, in reality, I did not know what
19 happened at the base. For that reason, I do not want my
20 explanation to be misleading.

21 [09.27.52]

22 Q. Thank you, Mr. Witness. Just one last bit of clarification
23 with respect to this telegram. Those who were copied are Uncle
24 Nuon, Brother Van, Brother Vorn, Office, and Documentation. Now,
25 am I to presume that Nuon is Nuon Chea; Van is, I presume, to be

10

1 Mr. Ieng Sary?

2 A. Yes, it's Mr. Ieng Sary.

3 Q. And did Mr. Ieng Sary carry other revolutionary names? Was he
4 called anything other than Brother Van?

5 A. No.

6 Q. Therefore, Brother Vorn is Vorn Vet. And then this telegram is
7 also copied to the Office and Documentation.

8 Let us move on to another telegram, Telegram 69. Here again, I
9 have a hard copy that I can make available to the witness. This
10 telegram is classified under document number E3/1122; the ERN
11 Khmer numbers are 00020932, the French ERN number is 00511626,
12 and ERN in English is 00436992.

13 [09.29.46]

14 This particular telegram is destined "To Respected Brother", it
15 is dated 11th of January 1978; it is signed by a certain person
16 called Vy. Can you please confirm that the "Respected Brother" is
17 indeed Pol Pot? And can you please tell us whether or not this is
18 signed by Vy and who Vy is?

19 A. Vy is the Northeast Zone Secretary.

20 Q. Very well. In the last paragraph of this telegram it reads as
21 follows:

22 "For general measure, this is the rice harvesting period. The
23 rice is transported inside at Sectors 104, 101 and 107. Some
24 people will be transferred to M-5, M-6, Koh Phneou and Ou Svay.
25 People on the west side of the river in Siem Pang, while

11

1 preparing the rice paddies, will be removed gradually to the east
2 side until the sufficient amount is reached. Sector 107 is close
3 to the border with Laos and has difficulty in terms of water. M-5
4 and M-6 of the Laotian side is close to the border like in Koh
5 Phneou, Ou Svay."

6 Sir, can you please describe to me the places that are mentioned
7 there? I presume that M-5 and M-6 are located in Sector 107, but
8 is there something that you can confirm or clarify for me?

9 [09.32.06]

10 A. For Sector 104, 101 and 107, they were the sectors, but as for
11 M-5 and M-6, I do not know. Actually, "M" codes, at that time,
12 referred to the office; they were not the sectors.

13 Q. Now, this telegram talks about movements of people from one
14 place to the other. Does this remind you of anything? Do you
15 recall messages of the same nature dealing with movements of
16 people in the sectors -- or the sectors and the region of the
17 North East?

18 A. I have never encountered the movement of people.

19 Q. Let me point out that this document is sent to Uncle Nuon,
20 Brother Van, Brother Vorn, Brother Khieu, and to the Office, and
21 Documentations.

22 Now, let us talk about document E3/884 (sic). I have a hard copy
23 for the witness. Could the Court officer hand this document to
24 the witness? So, it is document E3/898. And the ERN in Khmer is
25 as follows: 0020903 (sic). And the French ERN is 00335194, and in

12

1 English it is 00183626.

2 This telegram is dated the 11th of December 1977. It was sent to
3 the "Respected and Beloved 870", and it was delivered by a person
4 called Se.

5 May I again ask you, Mr. Witness, whether you can enlighten us as
6 to who received this telegram and who sent it?

7 [09.35.27]

8 Was it sent to Pol Pot? Is that person referred to as "Respected
9 and Beloved 870"? And who sent that telegram?

10 A. This particular telegram was not sent to the Office. Actually,
11 it was sent to 870 Committee. The Committee, in this context, was
12 not referred to any specific individual, but it was meant to send
13 to the members of the committee. And this was like other
14 telegrams. Sign -- the undersigned of this telegram was
15 responsible for one of the zone, which was Zone 801.

16 Q. And was that an autonomous zone that reported directly to
17 Office 870 -- to Committee 870?

18 A. Generally, all the zones were entitled to send telegrams
19 directly to the Centre. And as for the autonomous zones, which
20 encompassed Siem Reap, Oddar Meanchey, and Preah Vihear provinces
21 -- and that special zone was also entitled to send a telegram
22 directly to the Centre.

23 [09.37.14]

24 But, later on, there was a restructuring of the zone
25 organizations, so they form -- zones encompassing Siem Reap,

13

1 Oddar Meanchey, and Preah Vihear were no longer the -- under
2 autonomous zone. So whatever matters they had, they have to send
3 or relay the telegrams through Zone 801 under the supervision of
4 the person by the name of Se.

5 Q. Now, let us talk about the contents of the message, and I'll
6 read out the message to you;

7 "I proposed that to unify Siem Reap and Banteay Srei districts to
8 make them one single district, because they are adjacent. Siem
9 Reap district comprises 40,000 people. They are mainly 'New
10 People', to be distributed to other districts. The population of
11 Banteay Srey is 20,000 inhabitants, most of whom are 'Old
12 People'. It will be unified into one district, so that the 'Old'
13 and the 'New People' be unified. It is easy to be controlled.
14 Banteay Srey district does not have much farmland and it is less
15 fertile, whereas Siem Reap district consists of farmland along
16 Tonle Sap River, mainly fertile soil.

17 "Only making such an assignment can the total fertilized soil be
18 consumed. On the other hand, we select cadres with a view to
19 gathering cadre forces tremendously..."

20 [09.39.37]

21 Did you receive such messages? Did such messages reach you?

22 A. That particular telegram was decoded by my team. As the other
23 -- as for other telegrams of similar nature as this one, there
24 was no indication of the merging of districts with other district
25 under the zone at that time, other than these two districts.

14

1 Q. Let me specify that this message was copied to Uncle, Uncle
2 Nuon, Brother Van, Brother Vorn, Brother Khieu, the Office, and
3 Documentation.

4 Let us now look at another telegram, which, this time around, was
5 shown to you by OCIJ investigators. I have a hard copy of the
6 document, which I would like the court officer to hand to the
7 witness. It is titled "Telegram Number 15", and it is E3/154. The
8 Khmer ERN 00008494 to 95, French is 00386260, and in English it
9 is 00008495 -- and 0001864 (sic) to 65.

10 [09.41.55]

11 We talked about this telegram yesterday, and it deals with some
12 discrepancy -- or some disagreement between the East Zone and the
13 Northeast Zone. It is addressed to "Comrade Brother Pol", and it
14 is signed by Chhon. It talks about a disagreement between two
15 zones. The East Zone was supposed to liberate a number of Islamic
16 zones, and it had to hand over the displaced persons. The
17 question that arises regarding this telegram is as follows: Why
18 was it necessary to send a telegram to Brother Pol? Could the
19 problem not have been resolved directly between the two zones?

20 A. These telegrams indicated the disagreement between the East
21 Zone Secretary with the North Zone Secretary, not the Northeast
22 Zone Secretary. And it was addressed to Brother Pol, and
23 according to the context of this telegram -- and in my
24 understanding -- that whatever decision was made, it had to be
25 reported to Pol Pot, because he was the one who made the final

15

1 decision. So what was decided in the meeting but eventually could
2 not be implemented -- then that has to be referred to the top
3 leaders to make the final decision.

4 Q. Let me further clarify my question.

5 [09.44.47]

6 Was it possible that there would be communications between
7 different zones, and such communications had to pass through
8 Office 870 or had to originate from Office 870? I just want you
9 to understand my question clearly.

10 A. Actually, I did not know the inter-zone communication. And
11 neither did I know if there was a communication between zones or
12 among zones -- had to go through Office 870. And I did not know
13 what actually happened, particularly the communication on the
14 ground at the base.

15 Q. The contents of this telegram show that there was a principle
16 according to which the Cham had to be dispersed. Did you hear
17 about that or do you recall receiving any messages regarding the
18 idea or the need to disperse the Cham?

19 A. According to my understanding, through my decoding experience
20 of telegrams, there was no information about the dispersing of
21 Cham -- Muslim Cham ethnicity. There was only these telegrams
22 that made mention about this segregation or dispersement of --
23 dispersing of Muslim Cham ethnicity. And I actually did not have
24 this telegram with me at the time. I only learned about this when
25 I am presented with this particular telegram.

16

1 [09.47.05]

2 Q. I am not quite sure I grasp your explanations. Are you saying
3 that you do not remember receiving any telegrams referring
4 specifically to Moslem Cham or Islamic Cham, as opposed to Cham,
5 quite simply? Is that what you're saying?

6 A. I do not recall, because to my recollection, all the telegrams
7 I decoded were not related to Cham ethnicity in Cambodia.

8 Q. Let me point out that we've already talked about it. Those who
9 received that message was -- apart from Pol -- Brother Nuon,
10 Brother Yuon, Brother Yem, and a copy was also sent to the
11 archives.

12 [09.48.28]

13 Let us now look at another series of telegrams that are partly
14 related to the problem we have just referred to -- that is, the
15 problem of communication between zones. The first telegram is
16 E3/1221. I also have a hard copy of that document for the
17 witness. The -- it's Telegram 14. The ERN in Khmer is 00001263;
18 ERN in French, 00623007; and ERN in English is 0079 -- or,
19 rather, 00777988 (sic). This telegram is addressed to "The Highly
20 Respected and Beloved Angkar". It is dated the 26th of June 1977,
21 and it was sent to M-401. The telegram talks about the arrest of
22 24 persons by the security agents -- the militia, I suppose -- of
23 Preh Kry cooperative in Kampong Luong district, Kampong Chhnang
24 region.

25 And the author of this telegram asks whether those persons are

17

1 not likely to have fled from the North Zone. He wishes to obtain
2 explanations and requests Angkar -- that is in paragraph 4. And
3 it reads as follows: "They fled 109 days ago. Consequently, may I
4 request Angkar to contact the North Zone, to ask whether there
5 are zones from which people fled, and what measures are envisaged
6 by Angkar." End of quote.

7 [09.51.24]

8 Again, let me ask you whether you regularly received telegrams
9 from zones asking Office 870 or Angkar to convey information or
10 send requests for further information to zones. Do you know
11 whether that was a frequent practice?

12 A. I do not quite understand this telegram, because it was not
13 within the regular telegrams I decoded. But I think that there
14 was a communication from B-1 to North Zone. That's why they sent
15 this telegram to Angkar. And Angkar, in this context, was --
16 referred to Office 870. And it was like other telegrams you
17 presented earlier. Whenever there was no means of communication
18 to certain place, then they -- the telegram had to go through
19 Office 870 before it was relayed to the target recipient.

20 [09.53.19]

21 Q. Well, Witness, from a practical standpoint -- Witness, each
22 zone had its independent telegraph service. It had its coding and
23 decoding and telegram services. So from a purely practical
24 standpoint, was it possible for one zone to send telegrams to
25 another zone?

18

1 A. Yes. All the zones had their respective coding and decoding of
2 telegrams independently. However, the communication between zones
3 and zone -- I did not know whether or not that was allowed, and I
4 did not understand the internal arrangement of the Party or
5 Angkar.

6 Q. So, if I correctly understand what you have just stated -- you
7 say that from a practical standpoint, it is possible, but you do
8 not quite understand the instructions that were given to the
9 various people involved regarding the latitude they had with - in
10 sending telegrams. Let me point out that the telegram was copied
11 to Uncle that is, Pol Pot; Uncle Nuon, Brother Van, Bong Vorn,
12 Brother Khieu, the Office, and Documentation.

13 [09.55.30]

14 A last example of a telegram sent is in E3/254. And I have a hard
15 copy of this document for the witness. This document -- E3/254 --
16 can be viewed through the following ERN numbers. Khmer is
17 00020972, French 00504013, and in English 00377840. This telegram
18 is addressed to "Brother Sy and Pauk", and it is signed "Office
19 870". It is dated the 20th of March 1978.

20 It is very short, and I'll read it out:

21 "Be informed that: The East Zone has sent a copy of the report on
22 the enemies' activities in Mok Kampoul to the Office by
23 requesting the Office to send to you, Brother.

24 "Brother, please monitor this situation and take any measure
25 based on the reality by communicating with Mok Kampoul."

19

1 So we find here a request from one zone -- for -- requesting that
2 a report be forwarded to another zone. Can you tell us who
3 Brother Sy and Pauk were, to the best of your knowledge?

4 A. Actually, this is not a telegram, because there was no heading
5 and there was no number, and -- either.

6 [09.57.51]

7 But as for the target recipient of this -- was Brother Sy, in
8 this context -- at that time he was in the leadership level of
9 one of the zones. If I can recall, he was in charge of the West
10 Zone. But as Brother Pauk, he was the Secretary of North Zone.

11 Q. And can you tell us who was the signatory on behalf of Office
12 870? Did you often receive telegrams signed by Office 870? Did
13 Pol Pot sign documents referred to as -- on behalf of 870?

14 A. Here, we see the code number with "M" prefix, so it refers to
15 the Office. And the signatory of this letter was Office 870. And,
16 normally, in other telegrams, they would copy to Brother Van,
17 Brother Khieu, and other brothers. So, "M-870", here, is referred
18 to the members of Office 870 Committee.

19 Q. I very well understand, Witness. The document or the telegram
20 is sent by Office 870. Do you have any idea as to who, physically
21 - who, concretely, represented Office 870 -- who drafted the
22 document under the name 870, since 870 was not an individual
23 person? Do you have an idea as to who that person was?

24 A. Based on the number of documents that I have seen, I can form
25 my understanding. And if you look back into the meetings of the

20

1 Standing Committee, you can form your view that the Standing
2 Committee could appoint someone to be in charge of the political
3 office or the administrative office of Office 870. And if you do
4 that research, you would find out who would be in charge of
5 Office 870. The minutes of meetings of the Standing Committee
6 could reveal the meeting that was held either on the 9th or on
7 the 10th. And there is no need for me to explain further.

8 Q. Indeed, we will review the minutes of those meetings. However,
9 what is of importance to us today is your testimony -- what you
10 recall, to the best of your memory, and what you can remember
11 personally.

12 [10.02.05]

13 Therefore, you -- Mr. Norng Sophang -- do you personally
14 remember, based on information that you had at the time, who was
15 in charge of signing on behalf of Office 870?

16 A. I, personally, did not know who would be in charge of M-870.
17 Based on the document, Doeun was appointed to be in charge of the
18 political office of 870, and another person by the name of Pang
19 -- he was in charge of the state office. So I did not know which
20 one amongst the two would be able to authorize and to become a
21 signatory of M-870. And, due to this uncertainty, I cannot
22 provide you a precise response.

23 Q. And do you know if Doeun and Pang fell victim to the purges?
24 Were they arrested, and if so were they replaced?

25 A. As for Pang who used to be my trainer and my supervisor, I

21

1 knew that he disappeared before the 7 January, and as for Doeun I
2 did not know what happened to him or when he disappeared.

3 [10.04.13]

4 Q. And do you know who replaced Pang?

5 A. By that time -- that is, when it was close to 7 January, I did
6 not know how or whom Angkar appointed to replace him.

7 Q. Very well. Let us move on to another series of telegrams.

8 I'll begin with E3/1077, and once again I have a hard copy to
9 provide to the witness. I believe that this telegram has already
10 been discussed and introduced to you, Mr. Witness, unless I am
11 mistaken. This is telegram entitled "Number 324". It is signed by
12 Se. It is dated the 10th of April 1978.

13 Now, on the top left-hand corner of the telegram there is a
14 written annotation. Do you see that annotation and could you
15 please read into the record that annotation?

16 [10.06.06]

17 A. The annotation is "Uncle Nuon".

18 Q. Thank you. This telegram is addressed to "Respectfully sent to
19 Beloved Committee 870". It contains some information with respect
20 to the -- it concerns the situation of the enemy along Thailand
21 and Laos; it also makes reference to agricultural production and
22 harvest. Let us go over to paragraph 3 of the document and it
23 reads as follows:

24 "The situation of the enemy within the country: There is no
25 important change. The situation is normal. We are continuing to

1 purge the remaining group continuously, including those who
2 oppose our revolution openly and secretly. We have strong support
3 from the people, especially the base class people who are now
4 seeing more clearly who is a friend and who is the enemy. In
5 Sector 103, we carry out the purge of the hiding-burrowing-enemy.
6 We depended on the people and we have done it well. The enemy is
7 not able to raise their heads anymore because the people force is
8 so strong; in addition, the force oppresses them constantly, the
9 sweeping cleanse and screening them constantly. We have won over
10 these enemies since the beginning up until now. The purge of the
11 enemy in Sector 103 has made the people very happy." This is a
12 verbatim quote.

13 [10.08.12]

14 And during the period of Democratic Kampuchea, what was the
15 meaning of "purge"? What does "elimination" mean?

16 A. Sector 103 is autonomous zone in comprising Preah Vihear
17 Province. However, later it became part of 801 Zone.

18 Regarding the term "purge", I made my statement already before
19 the Office of the Co-Investigating Judges and I used the word
20 "perhaps", because it was based on my understanding that I myself
21 never went to the base or engaged in any of the purging activity.
22 Based on its literal meaning of the word "purge", it means to
23 sweep clean, or to make it clean.

24 [10.09.25]

25 However, the practical term under any regime, it would mean the

1 removal of the opposed elements. That would be the meaning of the
2 word "purge". So those who oppose the regime would be purged.

3 Q. Therefore, if I understand what you're telling us, sir, for
4 you the term "purge" and the term "eliminate", the term
5 "cleanse", or the term "purify" are all equivalent; is this
6 correct? Do they all mean that one is removed, after which what
7 happens, why are they removed and what happens to them
8 subsequently?

9 A. You request for my explanation, and let me do so. I would
10 explain based on my understanding, and if my understanding is not
11 correct it is at the discretion of the Chamber to dismiss it.

12 [10.11.00]

13 The three words - namely, "screening", "purging", and
14 "eliminating"-

15 The word "screening" has its literal meaning which means to make
16 it clean or pure, or to purify it as you just stated. That is the
17 literal meaning. However, in its practical term, this is again
18 based on my understanding, that in the gathering of forces the
19 selection process has to be very, very careful -- has to be very
20 precise that the background and biographies has to be examined,
21 the morality, the living style, before the person was recruited
22 to work and also the previous work performance has to be
23 examined. So, before a person was recruited to take up a
24 position, then the screening process would kick in.

25 As for the word "purge", I already explained its literal meaning

24

1 -- that is, "to sweep clean" -- and its practical term, again,
2 based on my understanding, that is the removal of any elements
3 that opposed its regime; and that is its practical term.

4 [10.13.15]

5 And when it comes to the term "smashing", smashing bears a more
6 serious connotation than the word "screening" -- more heavy
7 connotation than "purging". The literal meaning of "smashing", it
8 means to make it into tiny pieces. However, during that regime,
9 the word "smashing" was used generally. For instance, we smashed
10 one enemy armoured tank. It means the tank was destroyed and
11 cannot be used. That is in regard to the smashing of a material.
12 As for the smashing of people, it carried the heaviest
13 connotation. It means the killing or the execution of the people.
14 This is based on my personal understanding, Your Honour.

15 Q. Thank you very much.

16 [10.14.36]

17 We're going to move on to another topic because I see that time
18 is of the essence, therefore I'm going to move on to another
19 series of telegrams that relates to the same problem, in fact.
20 Yesterday, we also talked about problems of communications with
21 -- from abroad. Mr. Witness, I'm not entirely sure that I
22 correctly understood what was said yesterday, but can you please
23 tell us if there were telegrams that were sent from Phnom Penh to
24 another country and how they were received?

25 A. It is my understanding that it was not related to my work and

25

1 that the Ministry of Foreign Affairs was involved and I did not
2 know for sure.

3 Also regarding the communication with the outsiders or with
4 foreign countries, and as the Court indicates, any foreign forces
5 could not be punished or put on trial. So whatever I said or
6 whatever I understand would not bear any significance regarding
7 the intention of this Court.

8 [10.16.26]

9 However, if this Court has jurisdiction to try foreigners who had
10 their hand involved in the war in Cambodia, I am delighted to
11 once again come to testify regarding this fact, and if so please
12 try to gather all the relevant evidence and documents.

13 Q. Mr. Witness, that was not my question. I think we are
14 diverting from the subject at hand. I simply want to give you a
15 copy of a telegram in order to clarify a question or a matter
16 that was raised yesterday. So, if you will, Mr. Court Officer,
17 hand this document over to the witness.

18 This document is E3/1121, it is dated the 21st of December 1977,
19 addressed to "Respected and beloved brother". And if I have an
20 accurate translation of this document, it was sent from
21 Pyongyang, signed by Yem, and it would appear that Yem was the
22 ambassador of Democratic Kampuchea based in North Korea.

23 Therefore, did you frequently received telegrams that were
24 destined for Office 870 or for Brother Pol Pot, and which came
25 from abroad, that came from embassies in China, for instance, or

1 in North Korea, or in any other country?

2 [10.18.19]

3 A. I am uncertain regarding this matter. At that time, after the
4 liberation, the diplomatic relationship somehow formed and
5 initiated. In reference to this, the content of the telegram, it
6 made me recollect that the telegram falls within the -- my
7 working group. However, later on when the foreigners could work
8 sufficiently then they dealt exclusively with the Ministry of
9 Foreign Affairs, and this telegram was actually done in late
10 1977. And as Your Honour understands, Yem was the person who
11 worked at the Cambodian embassy in North Korea.

12 Q. Therefore, there were communications between Phnom Penh and
13 certain foreign countries through the embassies. Can we arrive at
14 that conclusion?

15 A. As I knew to a certain degree, they did not have to
16 communicate directly with the embassies. K-18 Office itself would
17 be able to send telegrams through the radio waves, directly to
18 the embassy in Pyongyang. The signal could reach Korea.

19 Q. Was your office ever led to decode or decrypt messages
20 concerning trade matters, concerning commercial matters such as
21 the import and export of goods and materials destined for
22 countries abroad?

23 A. No, not in my team. We never decoded that message.

24 [10.21.33]

25 Q. Allow me to return very briefly to what you said with respect

1 to Mr. Khieu Samphan. When Mr. Khieu Samphan received a telegram
2 directly, or when he was copied to a message, what was the name,
3 or alias, or identity used for Mr. Khieu Samphan? How was he
4 identified?

5 A. As for Mr. Khieu Samphan, his alias was Brother Hem. "Hem"
6 referred to him.

7 Q. Did he have any code names? Did he have any other aliases? Was
8 there any other method of identifying him?

9 A. No. Besides Hem, there was none.

10 Q. And when Mr. Khieu Samphan sent messages himself, did he sign
11 off as Brother Hem or did he sign off using a different name?

12 A. His message was opened message. He could either use Hem or
13 Khieu Samphan. For instance, regarding instructions to the people
14 at the base to await his announcement - or, his instructions for
15 them to take a break to listen to his announcement -- for that
16 kind of message, he would use his real name, Khieu Samphan.

17 [10.23.59]

18 Q. If I understood what you said correctly yesterday, you had a
19 direct telephone line to Mr. Khieu Samphan, and Khieu Samphan
20 would call upon your services to encrypt messages that he sought
21 to send. Did Mr. Khieu Samphan hold the same ranking as Office
22 K-1? Did he use the services for the same reasons and in the same
23 conditions, or were any special allowances or entitlements given
24 to Mr. Khieu Samphan?

25 A. He had the right to use my group as the same rights that K-1

1 had, and in regard to his message, usually the content was about
2 the organization and the distribution of materials. That is the
3 difference. K-1 had the authority to issue or to respond to any
4 kinds of telegram or message. But as for Mr. Khieu Samphan,
5 mainly his messages were relevant or related to the distribution
6 of materials.

7 [10.25.54]

8 Q. Yesterday, you provided some explanations before this Chamber
9 regarding a table, an organizational chart that you had presented
10 initially to the Co-Investigating Judges, and at the very top of
11 this organizational chart there was Office 870, followed by the
12 Presidium, followed by the State Assembly, followed by the
13 Assembly of Peoples, and there are some arrows pointing to a
14 subgroup of ministries. What do the arrows mean? Does that mean
15 that Mr. Khieu Samphan holds a ranking of superiority over these
16 ministries? Was he copied on all telegrams that were destined to
17 the ministries? Why did you draw an arrow between the State
18 Presidium and ministries?

19 Once again, I will point out that I'm referring to document
20 E3/209.12 (sic) -- or document D200/9.12.

21 A. In general, for the governance of a state, the president of
22 the State Presidium would oversee all the ministries. On the
23 civil side, he had the authority to get information to manage the
24 ministries. That would be the common occurrence within a
25 government -- that is, the government was in charge of the civil

1 administration.

2 [10.28.16]

3 Here, I did not draw an arrow pointing towards the Ministry of
4 Defense or -- and the arrow only indicated to the ministries or
5 the civil ministries, not the military one -- that would fall
6 under his management. He did not have the authority to oversee
7 the Defense of the Ministry of Defense or the Military, as they
8 had their own headquarters supervised by Son Sen. So, once again,
9 I repeat, he did not have authority over the Military or Soldiers
10 and that's what I meant in the chart that I drew.

11 So there were the civil part and the military part within the
12 ministries.

13 Q. The question relates to what you personally were witness to.
14 Now, at the time you were in charge of the decoding and
15 deciphering unit, you received telegrams that were destined to
16 certain ministries. Were those telegrams sent to Mr. Khieu
17 Samphan as a copy? Were you an eyewitness to any communications
18 between ministries and Mr. Khieu Samphan? If that is the case,
19 please answer so and provide some explanations.

20 [10.30.19]

21 A. No, I did not know that.

22 Q. Very quickly, let us return to the situation during the time
23 that you worked at B-1 and the liberation of Phnom Penh. You
24 explained that the encrypting and decoding service was split in
25 two. There was one section that was based in B-1 which was under

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1 your auspices and then there was another section that was led by
2 Mr. Pol Pot on the westerly end of Phnom Penh.

3 You stated that you never received any messages concerning
4 instructions to forge a military plan to attack Phnom Penh and
5 you do not have any recollection of messages concerning the
6 evacuation of Phnom Penh. Have I correctly and accurately
7 summarized what you said in earlier testimony and what you are
8 saying now?

9 A. Yes, that is correct, and that is also the truth.

10 [10.31.35]

11 Q. That said, while you were at B-20, you stated that you were
12 able to contact Pon permanently, who worked for with Pol Pot. And
13 if I understood you correctly, your service, B-20, was in charge
14 of encrypting messages sent to the base.

15 My question to you is as follows: After the 17th of April, did
16 you receive messages regarding the implementation of instructions
17 relating to the receipt of persons evacuated from Phnom Penh? Did
18 you receive messages that were aimed at informing the base that
19 the people evacuated had arrived and that they had to be
20 received, they had to be taken care of; they had to be fed, and
21 housed? Do you recall receiving such telegrams?

22 A. No. I have no -- I have never received such a telegram.

23 Q. I have two more questions to put to you very quickly,
24 particularly with regard to the organization of Office K-1.

25 I will show you a document, and it is E3/858, and that document

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1 should be handed to the witness -- a hard copy of the document
2 should be given to the witness. This document contains a list of
3 staff members of Office K-1 and I note that there are two
4 columns, K-1; then you have K, as in general, and on that K you
5 have K-1 and it is mentioned almost at the end of the document
6 and it refers to K-1 outside of Uncles' office.

7 [10.34.32]

8 Do you know whether there were two groups at K, two "K" offices
9 headed by different persons?

10 A. To my recollection, K-1 and Brother Lin, in this particular
11 document -- and when I was providing my testimony in front of the
12 Office of Co-investigating Judges, Lin here was referred to as
13 Ken -- I think they were -- these two names were referred to as
14 one person. He was the person in charge not only within the
15 building, but also the premises surrounding the building complex.
16 He was in charge of the security both inside and outside the
17 premise of K-1.

18 Q. I have two other questions to put to you, but I think it is
19 time for us to take the coffee break.

20 MR. PRESIDENT:

21 Thank you, Judge.

22 The time is now appropriate for adjournment. The Chamber will
23 adjourn now until 11.00.

24 The court officer is instructed to facilitate the witness to rest
25 during the break and have him back before this Chamber by 11.00.

1 The Court is now adjourned.

2 THE GREFFIER:

3 (No interpretation)

4 (Court adjourns from 1037H to 1100H)

5 MR. PRESIDENT:

6 Please be seated.

7 The floor is now once again given to Judge Lavergne to continue
8 his questioning of this witness. You may proceed.

9 BY JUDGE LAVERGNE:

10 Thank you, Mr. President.

11 Now, Mr. Witness, if you feel fatigued, if you need to observe a
12 break, please feel free to tell us so; we want to make sure that
13 you are feeling in good form.

14 [11.01.46]

15 Q. Now, returning to E3/858 that we were examining earlier; I was
16 seeking some clarifications with respect to the composition of
17 Office K-1. On the first page of that document, we can see the
18 name Bong Lin who is cited as the general of K-1 and K-4. Can you
19 please confirm what I stated earlier, that is to say that Bong
20 Lin was also known as Ken?

21 MR. NORNG SOPHANG:

22 A. Yes, he also bared the name of Ken.

23 Q. I'm not sure if you had some time to examine this list, but
24 are there any names that trigger your memory? Does the name Bong
25 Tan, who is cited as the chief of Office K-1, or Bong Sin, who is

33

1 listed as the chairman of the guards who accompanies Uncle during
2 his travels, as Sin is listed in row number 3? Do any of these
3 names refresh your memory?

4 A. Yes, I knew them, Tan Sin, Han; I knew these people.

5 [11.03.36]

6 Q. Did you know a person called Sem? Ket Thor alias Sem; does
7 this name refresh your memory?

8 THE INTERPRETER:

9 Judge Lavergne, could you please repeat the name of the person,
10 as the interpreter did not get it?

11 JUDGE LAVERGNE:

12 Yes, of course. I was referring to a person who would have been
13 called Sem. His authentic name would have purportedly been Ket
14 Thor.

15 MR. NORNG SOPHANG:

16 A. Sem was the wife of Lin or Ken.

17 BY JUDGE LAVERGNE:

18 Q. Let us move on to another page. It is on page 9 of the French
19 version. It is under the subheading K-7. I would ask you to refer
20 to ERN pages 00643484 (sic); those are the French ERN numbers.
21 This is a list concerning K-7. Under the title "K-7 Messenger
22 Services Transportation - Transport" rather, and "Telephones",
23 and the first name that is listed is Han, Chairman Office K-7, It
24 is then followed by the name "Thorn".

25 [11.06.01]

1 Can you please just do a cursory reading of those -- this list,
2 go over the names and tell me if any of those names refresh your
3 memory?

4 A. I knew the name Han but I don't think he was the Chairman of
5 Office K-7. Han was the Chairman -- Chairman of Production at
6 K-8, as I recalled it. There could be a reorganization and I may
7 not know this person by the name of Han in this context, as the
8 person by the name of Han, whom I knew, was the Chairman of the
9 Production Unit near Bassac River, which was also known as K-8.

10 Q. Let us move to the section that can be found two pages
11 onwards, K-13. The French ERN pages are 0073 - or, rather,
12 00391734, the English ERN pages K-13 telegrams.

13 The first person listed is Pon who is the Chairman of Office
14 K-13, former teacher in Kampong Cham. He was born in Tuol
15 Sambour. In '70 -- or 1970, he joins the district military, so on
16 and so forth.

17 The second name listed is Yuos, who carries the title Deputy
18 Chairman Office K-13.

19 The third person listed is At, who is a member of Office K-13.
20 Then comes the name Sen, in fourth place

21 Do any of these names, including Lak and Sreang, call to mind
22 anything? And why were they assigned to K-13 because I assume
23 that telegraphs -- telegrams were assigned to K-18?

24 A. I do not get it, because Pon was my supervisor and here he was
25 also in charge of the telegram together with Yuos. I never heard

35

1 of K-13, I did not know whether it was newly formed.

2 As for the names of At and Lak and Sreang, I knew them. I cannot
3 recall the person by the name of Sen. But I am certain of the
4 name Pon and Yuos, but here -- their names were put under K-13,
5 it should not be K-13, it should be K-18.

6 Q. Very well. The last heading I wish to address is on the last
7 page, it states that K-1 is found just outside Uncle's house.

8 [11.11.00]

9 This is on page 14 to 16 on the French version, 006064 (sic)--
10 It is said, -- it is written that Dim is the responsible person
11 for K-1; Thé is listed as a member of Office K-1; followed by
12 Peak, Choeun, Chhat, Long.

13 Do any of these names refresh your memory or call to mind
14 anything?

15 This is on ERN English page 00391737.

16 A. It is the defence team outside K-1; I cannot recall the names
17 since I did not know them well.

18 Q. Of the names that are listed on this document, do you recall
19 if any of these individuals were smashed, eliminated, purged, or
20 cleansed? At the time, what did you know about the people who
21 were assigned to K-1 and who subsequently disappeared?

22 A. No, I cannot recall that.

23 [11.13.23]

24 On this page it lists the names of those who provided protection
25 outside and I did not know them well.

1 Q. To conclude, I would point out that we have a certain number
2 of documents that come from S-21, the first being D108/26.227. It
3 is entitled Section of Ministry S-71.

4 Now, the person listed in row number 7 of this list is called San
5 Sim; he is identified as the Deputy Chief of Office K-18. It
6 would appear that he entered S-21 on the 6th of December 1978.

7 In row number 13, there is the name Uch Phan alias Pon, who is
8 identified as the Chief of the Office of Telephones, and it would
9 appear he entered S-21 on the 4th of April 1978.

10 At number 15, we see the name Thaong Han, described as the Chief
11 of the Messenger group for Office 7. It would appear that he
12 entered S-21 on the 24th of May 1978.

13 [11.15.03]

14 At number 19, there is the name Tuon Kimsrouy alias Sreang,
15 identified as Chief of Group of Office K-18.

16 Sir, do any of these names ring a bell? Did you hear about the
17 disappearance of any of these individuals?

18 A. No, I did not know. I only knew about the disappearance of Pon
19 my supervisor. As for the rest, I did not know when or how they
20 disappeared.

21 JUDGE LAVERGNE:

22 Very well.

23 I wish to thank you, Mr. Witness, I wish to thank you for all of
24 your efforts in answering my questions, to thank you for your
25 testimony.

1 And, Mr. President, those are all the questions that I have.

2 MR. PRESIDENT:

3 Thank you.

4 [11.16.15]

5 I'd like now to give the floor to Khieu Samphan's defence to put
6 questions to this witness. International Defence Counsel for Nuon
7 Chea, you may proceed.

8 MR. IANUZZI:

9 Thank you, Mr. President. Good morning, everyone. I am not trying
10 to cut the line here; I just have a quick announcement to make.

11 With respect to two documents which were recently placed on the
12 case file -- that's D200/3.11 and D200/3.12, those are audio
13 recordings of -- transcript of audio recordings of the interview
14 of this witness -- pursuant to Judge Fenz's ruling from the other
15 day, I just wanted to give everyone notice that we may utilize
16 these documents. They are not on the interface, obviously; one we
17 received afternoon yesterday, and one has just come on the file
18 now.

19 [11.17.10]

20 So I just wanted to mention that for notice purposes, we may make
21 use of them. I'm not saying we will, but everyone's seen them,
22 they're part of the witness statement, this is the witness that
23 we're dealing with today. And I think there was an assumption
24 that was made, or a presumption that was made last week or maybe
25 the week before that that the witness statements -- sorry -- that

1 the witness statements would be sort of assumed to be used by all
2 the parties.

3 So, I'm just flagging this up. That's all I needed to say. Thank
4 you.

5 (Judges deliberate)

6 [11.19.35]

7 MR. PRESIDENT:

8 The floor is now given to Khieu Samphan's defence.

9 QUESTIONING BY MR. KONG SAM ONN:

10 Thank you, Mr. President. Good morning, Your Honours. Good
11 morning, everyone in and around the courtroom. Good morning, Mr.
12 Norng Sophang. My name is Kong Sam Onn, a defence counsel for
13 Khieu Samphan. And on behalf of my client Khieu Samphan, I would
14 like to thank you for your valuable time that you spent to
15 testify in detail in this courtroom for the last couple of days
16 despite your state of being unwell.

17 [11.20.30]

18 Q. I have some questions that I need your clarification on. They
19 are mostly based on the questions and your response so far.

20 First, I would like you to clarify your status as a decoder at
21 Office K-18, that you said there were the outside and inside
22 teams. What I want to know is: What was the responsibility for
23 the incoming messages to your office and what was the difference
24 -- responsibility for the outside and the inside team? Or was it
25 the same or was it based on the urgency of the confidentiality of

1 the message? Can you enlighten us on this point?

2 MR. NORNG SOPHANG:

3 A. Let me clarify the work of my group working at K-1, not K-18.

4 At K-1, we had the inside decoder team and I was at the Samdech

5 Sothearos School, which was another decoding team and we were

6 tasked also with the training. When it comes to the work of these

7 two teams -- and as I have stated so far, it depends on the

8 nature of the message. If the message did not have anything to do

9 with the enemy or the enemy in person, for instance, I would use

10 that kind of message for the training to teach the younger

11 workers.

12 [11.23.00]

13 So we kind of taught them on the job. For example, if I was

14 responsible for the Northeast Zone, as I was, but later on due to

15 the intensified situation at the border and in order for

16 sufficient communication for in time replies, then the Northeast

17 messages were decoded inside and that's how it was organized. If

18 I am uncertain, please ask me additional questions.

19 Q. Thank you for your clarification and the correction that you

20 made.

21 My question is: For the outside team, how many workers for that

22 team, and what about the inside team? How many members?

23 A. For my outside group, there were those children that I

24 trained; there were four of the young ones who could assist me

25 with my work. In total, for those youths who could carry out the

40

1 task in my team, there were about 10 of them. Regarding the
2 inside members, there were only a few of them, they were not
3 many.

4 [11.25.16]

5 Q. Thank you. And for your outside team, did you designate any
6 particular individuals into smaller teams for the purpose of
7 decoding messages?

8 A. Yes, indeed, there was. Because we actually received messages
9 from more than 10 spearheads.

10 So one of us could be responsible for three or four targets, or
11 some would be responsible for only two or three.

12 Q. Thank you. When -- or after your staff decoded the message,
13 was (sic) you the one who would verify the content of the
14 decoding messages?

15 A. As I was the one who bore the responsibility outside, I
16 verified the content including the spelling errors or the
17 accuracy of the text. And if the -- the decoding made some errors
18 or hard to understand, then I would have to verify and amend it.
19 So I did all these aspects before the message was sent to K-1.

20 [11.27.35]

21 Q. Thank you. Did your office verify the information contained in
22 each message? For example, one message was sent to your office --
23 and did you verify the content of that message, whether it was
24 accurate? Or was your sole responsibility was just to decode the
25 message and that was it?

41

1 A. Regarding whether the content was accurate or not, was not our
2 authority to verify it -- we only decoded the message that was
3 sent to us. So, we did not know whether the transmission of the
4 report and the content was accurate or not. As soon as it was
5 within the message, we simply decoded it.

6 Q. Thank you.

7 In relations to the carbon copy to Uncles as you have stated so
8 far, you confirmed that when you decode it -- after you decoded
9 the message you would only put in the date of the decoding and
10 then it was your supervisor who would authorize for the line
11 copied to.

12 My question is: Was -- what was the procedure to verify that
13 documents that you sent would be -- reached those intended
14 recipients?

15 [11.30.10]

16 A. I did not know whether those messages would reach its -- their
17 intended recipients. And as for the typing of the copied to line,
18 if I myself was certain then I will type it in to this Uncle or
19 that Uncle based on the existing principle, and usually there was
20 no change; it was kind of regular.

21 So, usually, the copy lines to was regular to those intended
22 Uncles and Office. However, in certain cases when I was uncertain
23 before I put in the copy line to, I had to make a phone call
24 first to verify it as who would be the intended recipients. And
25 once I receive the information from Pon then that line would be

1 typed. If I am not clear then I would simply relay the message in
2 its entirety.

3 Q. When you were decoding each telegram, did you -- upon -- upon
4 receiving the telegrams, did you ever see the names of
5 individuals who were in the carbon copies or did you only see the
6 telegrams and then those who were supposed to be copied to was
7 added later?

8 A. No, I never received such telegrams.

9 [11.32.35]

10 Q. Thank you.

11 I have a few additional questions concerning the organization of
12 the Communist Party of Kampuchea. You testified at length on this
13 issue with the Prosecution as well as the Lead Co-Lawyers for the
14 civil parties.

15 In your earlier testimony, you use certain words to refer to the
16 Party or the Communist Party of Kampuchea, so I would like to ask
17 you for clarification on the use terms. For example, you used the
18 word "Centre". In your previous testimony before the Chamber -- I
19 would like to bring up an example -- that was a testimony on the
20 3rd of September 2012, on page 16 of the Khmer transcript, and 19
21 and 20 in English, and 19 in French, you used the words "Centre
22 Office" and "870 Committee", and so on. And you also mentioned
23 that the secretive code number of 870 was referred to the Party
24 Centre. So, once again, you used the word "Centre", "Centre
25 Office", "Centre Committee", "870 Committee", "M-870", "870

1 Committee", "Standing Committee".

2 [11.35.02]

3 So, these were all the terms you used in your testimony. Could
4 you make the distinction between - or, among these terms? Do you
5 understand whether or not each term was -- referred to any
6 specific entity? Can you make any distinction between the terms
7 you used?

8 A. I understand that there were many terms and connotations of
9 words, but what we commonly saw at that time was Office 870. When
10 people refer to it as Angkar, actually it was 870. When people
11 referred to the Party Committee, it was also referred to as
12 Office 870. So I was rather confused myself.

13 I did not know who sat in the Standing Committee and who sat in
14 other committees. And it was my personal understanding the
15 applied meaning of that was that -- we actually -- at the
16 Telegram Unit, we did not care whether or not they were from
17 anywhere or who was doing what, but we had to send the telegram
18 to Office 870.

19 [11.36.40]

20 And my understanding at the time of the internal arrangement of
21 the Party was very limited, and I was at the lower-level
22 position, so I did not understand how they would resort to using
23 any particular code names for a particular entity.

24 Q. Thank you. So my -- if my understanding is correct, you find
25 it difficult to assess the specific or intended meaning of each

44

1 code name, but in the interest of my client I would like to ask
2 you for your clarification. So far, in your unit, you did not
3 make any distinction -- what was referred to Office 870 or 870
4 Committee or the Party Centre? So in your unit, you did not make
5 that distinction; is that correct?

6 A. That is correct.

7 [11.38.05]

8 Q. Thank you for clarification.

9 I would like to now move on to another question. Do you have a
10 clear understanding between the Standing Committee and Central
11 Committee of the Communist Party of Kampuchea?

12 A. I actually responded to the same questions by the lawyers for
13 the civil parties. Actually, I said in my early testimony that,
14 even the leaders who were in the leadership level did not
15 understand the internal arrangement of the Party -- and how could
16 a person at my level, which is very low in the organizational
17 structure know the -- who was sitting in the Standing Committee
18 or Central Committee?

19 Q. So, is it a fair summary to say that you cannot make any
20 distinction between the Standing Committee and the Central
21 Committee? Is that fair to summarize so?

22 A. Yes, it is.

23 MR. KONG SAM ONN:

24 Thank you, Mr. Norng Sophang. I do not have any further questions
25 for you.

1 [11.39.48]

2 And I thank you, Mr. President and Your Honours, for the
3 opportunity to put the questions to the witness.

4 QUESTIONING BY MR. VERCKEN:

5 Good morning, Witness. My name is Arthur Vercken. I am also
6 counsel for Mr. Khieu Samphan. I also have a few quick questions
7 to put to you.

8 Q. I know that you have perhaps answered these questions somewhat
9 sketchily. To your knowledge, in Phnom Penh during the DK regime,
10 when you worked for it, did the different ministries have their
11 own decoding or coding teams, as well as their own telegraph
12 machines and lines?

13 MR. NORNG SOPHANG:

14 A. No, they didn't. Other ministries did not have the encoding or
15 decoding unit, or not even the Telegram Unit. But as for Ministry
16 of Foreign Affairs, I am not sure. That's why I dare not comment
17 on it. But apart from the Ministry of Foreign Affairs, there was
18 no -- any decoding or encoding unit attached to other ministries,
19 except the Ministry of Defense. Of course, the air force, the
20 infantry forces, as well as the navy -- they had their encoding
21 and decoding unit as well as the landlines and also telephone
22 contact.

23 [11.42.18]

24 Q. Thank you. You have understood, Witness, that this tribunal
25 does have not only the written records of your interviews with

1 investigators, but audio recordings of interviews you had with
2 the investigators of the tribunal.

3 Regarding the first interview you gave to interpreter -- to the
4 investigators on the 18th of February 2009 -- it is D200/3.11.

5 The French version is 00843072; English, 00844 -- French version,
6 00843072; English ERN 00844077 (sic); Khmer, 00838464.

7 And you stated that:

8 "Khieu Samphan did not have a telegram. He only communicated by
9 handwritten letters. Otherwise, he phoned us from his office. He
10 would ask us to write letters and send them to such and such a
11 location."

12 And then you explained that, once those letters were coded and
13 given a reference number, you sent them to outside locations. You
14 said this before this Chamber, on the 29th of August, at 11.55
15 (sic), page 52 of the French.

16 [11.44.29]

17 You stated that messages by Khieu Samphan absolutely passed
18 through your unit.

19 Do you know, with regard to Mr. Khieu Samphan, whether you were
20 the person in charge of all those messages?

21 A. As for the -- my communication with Mr. Khieu Samphan as well
22 as with his team at that time -- was as follows: If it was a
23 letter, then he would have it typed, and then he would have that
24 letter sent through a messenger to my unit in order to encode the
25 message. However, if the letter was short and urgent, then his

1 office would communicate to my office through telephone.
2 He actually had the authority to get the letter or message sent
3 to K-1, and if there was any message relating to my unit then K-1
4 would refer that letter to my unit. So, what I am trying to say
5 is that it was not every letter from him that had to through my
6 unit. He had the authority to communicate with another team of
7 mine who were stationed at K-1 if he had any urgent or certain
8 message he wanted to send there.

9 Q. May I ask you to simply explain the encoding system?

10 [11.47.27]

11 When you talk of encoding, are you talking of translating or
12 transcribing into the Morse code or you are talking of assigning
13 a number to a message in order to make it more discreet? Was your
14 service also in charge of converting a normal text into Morse, or
15 you just simply encoded it for purposes of confidentiality?

16 A. My unit was to encode the message. By encoding, I mean the
17 content of a letter, which was typewritten or written. Then it
18 had to be encoded in order to turn them into code numbers. So we
19 would not read it as letters, as such, but it was the code
20 numbers. But that was not considered secretive code. But if we
21 want to make it into a secret code, then we had to use Morse
22 code. Once we transform it into using Morse code, then it turned
23 to be the secret telegram.

24 [11.49.15]

25 But we used the Morse -- Morse itself was not the secret code. We

1 used "tik tik ta" and we did not have to encode numbers. And
2 Morse -- if we used Morse code, then people could read it and
3 understand it. I hope I have made myself clear.

4 Q. Unfortunately, as you know, what you say is interpreted
5 successively into different languages, and there may be
6 distortion between what you say and what I hear in French. And
7 there may well have been such distortion. What I heard the
8 interpreter say was that the Morse code was secret, and at the
9 end of your answer you stated that the Morse code was not secret.
10 So what you stated was contradictory.

11 [11.50.34]

12 As far as I am concerned, the Morse code is an international
13 language, known to everyone. A French text that is written in
14 Morse code does not encrypt this -- the document. When you
15 encrypt a document, you give it numbers; is that correct?

16 A. Yes, you are correct. Actually, we did not use Morse code in
17 order to encrypt the message. They -- it was the ordinary letters
18 that could be understood by the readers. For example, people who
19 speak French or English -- they would understand. For example,
20 Cambodia; it would be written in Latin words. Then you did not
21 have to decode this written script.

22 The Morse we used were of two types: one was the Morse of Khmer
23 language, and the other one was for English or French. Those who
24 were in the Telegram Unit would be able to use the Morse code,
25 both in Khmer and in French or English.

1 Q. Thank you for this very precise answer which indeed clarifies
2 what you stated earlier.

3 [11.52.34]

4 Tell me, a while ago you referred to open letters. Is that
5 equated with one of the letters you referred to -- you talked of
6 one of the letters by Khieu Samphan, saying that it was an open
7 letter. What did you mean when you referred to that letter as an
8 "open letter"?

9 A. By "open letter", I mean that message was not secretive in
10 nature. In other words, it was the letters about the distribution
11 of materials and things like that so that that letter is informed
12 to the zones. And zones level would know how much material they
13 could anticipate and particularly when those materials be
14 delivered to the zones so that the zones would arrange the
15 pick-up or so of those materials sent from the Centre.

16 But as for the letters that needed to be encoded or encrypted, it
17 was different. But these kinds of open letter, it did not require
18 such complex encrypting method.

19 [11.54.22]

20 Sometimes we receive this letter and then we simply encoded the
21 numbers and then sent them across to the zones. We did not have
22 to go through many layers of encoding and encrypting.

23 And as for the other types of open letter, by ways of example, if
24 he had an open instruction or a statement, a public statement to
25 be made for the interests of the public, then we can use Morse

50

1 code in Khmer to type the message. For example, if there was an
2 instruction for organizing national festivals or so, then this
3 would be typed using Morse code and we send the information to
4 the public that the President of the State Presidium would
5 address the public on the festival day. Then that kind of letters
6 or information was meant for the public and it was even sent
7 overseas as well for foreign friends.

8 These types of letters or statements did not go through the
9 encoding process. We merely used Morse code. So that
10 distinguished between the secret nature and the open nature of
11 the letters or statement.

12 [11.56.10]

13 Q. Thank you. And did such letters also pass through your
14 service? Is that correct?

15 A. This was like the circular or a directive sometimes, so
16 whenever he needed to address the public during the Khmer New
17 Year or the International New Year, then he would issue a
18 circular in order to inform members of the public to be ready to
19 listen to his public statement.

20 Q. And did such circulars pass through your office?

21 A. More often than not for the public statement or circular, he
22 would send it to K-1. Then K-1 would relay the message. For
23 example, the K-1 would decide where to send this letter or
24 statement to.

25 Of course, K-1 had the authority to circulate this letter to

51

1 every zone across the country, but I was only responsible for
2 certain zone communication. Then this type of letter would go
3 through K-1 first.

4 And I can bring up a specific example. On the issue of material
5 distribution, then he would communicate the message to my unit.
6 He did not normally send it through K-1. He would send it
7 directly to my unit.

8 [11.58.40]

9 Q. I do understand. Thank you.

10 I would like to know whether during the period when you worked in
11 Phnom Penh, there was some kind of mistrust vis-à-vis the
12 telephone. What I mean is this: Did one of the persons who sent
13 messages to you do so confidentially by phone or he would have
14 preferred to have it brought to you or delivered to you by a
15 courier or a messenger? Was there any such mistrust of the
16 telephone at the time?

17 A. That, I do not know.

18 [11.59.42]

19 MR. VERCKEN:

20 Mr. President, I see it is noon. As I would like to go into
21 another line of questioning, perhaps it is the right time for us
22 to take the break.

23 MR. PRESIDENT:

24 Thank you.

25 The time is now appropriate for lunch adjournment. The Chamber

52

1 will adjourn now until 1.30 this afternoon.

2 Witness, Mr. Norng Sophang, can you assess your state of health
3 as of now whether or not you can continue providing testimony
4 this afternoon?

5 MR. NORNG SOPHANG:

6 With utmost respect, Mr. President, even though my state of
7 health is rather fragile, but I am committed to providing this
8 testimony to the Chamber, so I will endeavour to do so this
9 afternoon.

10 MR. PRESIDENT:

11 Court officer is instructed to facilitate the venue and place for
12 the witness to rest and have him back to this courtroom before
13 1.30 this afternoon.

14 And if necessary, Mr. Witness, you may let us know; then the
15 court officers will engage the treating doctors or medical
16 doctors who are on duty in the Court to examine your state of
17 health as the case may be.

18 I note the defence counsel is on his feet. You may proceed.

19 [12.10.32]

20 MR. IANUZZI:

21 Thank you, Mr. President. Very quickly, I've just been informed
22 that our client is suffering from a backache, a headache and a
23 general lack of concentration, and, for those reasons, he wishes
24 to retire to the holding cell for the afternoon. And that is our
25 application this morning. Thank you very much.

1 MR. PRESIDENT:

2 The Chamber notes the request by Mr. Nuon Chea through his
3 defence counsel to follow the proceeding remotely through
4 audio-visual means for the remainder of today's proceedings due
5 to his health reason. He cannot sit for a long time and he has
6 problems concentrating in the afternoon. And we consider this
7 request appropriate, so the request is granted.

8 Mr. Nuon Chea is granted leave to follow the proceeding from the
9 holding cell downstairs via audio-visual means. And Mr. Nuon Chea
10 has expressly waived his right to -- not to be present directly
11 in this courtroom.

12 The defence team for Mr. Nuon Chea is required to submit the
13 waiver with the signature or thumbprint of Mr. Nuon Chea.

14 [12.02.57]

15 And AV assistants are instructed to connect the audio-visual link
16 for Mr. Nuon Chea to the holding cell downstairs for the
17 remainder of today's proceeding.

18 Security guards are instructed to bring Mr. Nuon Chea and Mr.
19 Khieu Samphan to the holding cell downstairs. This afternoon, Mr.
20 Nuon Chea is to remain in the holding cell where he will be
21 connected to the audio-visual link to follow the proceeding, and
22 Mr. Khieu Samphan is to be brought to this courtroom before 1.30.
23 The Court is now adjourned.

24 THE GREFFIER:

25 All rise.

1 (Court recesses from 1203H to 1330H)

2 MR. PRESIDENT:

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

4 The floor, once again, is given to Khieu Samphan defence team to
5 put questions to this witness. You may proceed.

6 BY MR. VERCKEN:

7 Thank you, Mr. President.

8 Q. Witness, I will proceed with your examination. Let me reassure
9 you that I will not take very long.

10 You had told the Chamber that if -- there had been some
11 compartmentalization between the internal teams and the external
12 teams that were in charge of encryption.

13 Did you have any information as to what the external team did and
14 the internal team did? Did you have such information?

15 MR. NORNG SOPHANG:

16 A. No, I did not know.

17 [13.32.16]

18 Q. So, you did not know the nature of the messages processed by
19 the internal team? Is that what you're saying?

20 A. Yes, that is correct. Besides working on the telegram, I did
21 not know what else they engage in during their free time. Within
22 my team, I have multiple tasks, including decoding the telegrams,
23 the teaching of the literature, for instance, so, I did not know
24 what happened to the internal team during the free time.

25 Q. Thank you. Please clarify this; when you were heard by -- or

55

1 interviewed by -- tribunal investigators -- and you did say that,
2 before this Chamber -- at times Mr. Khieu Samphan sent you
3 messages through human messengers, and not by phone, and that the
4 K-1 messenger was Sem. and that he brought messages right to your
5 office. Do you recall stating that?

6 A. Yes, I recall -- that is Sem's group.

7 [13.34.25]

8 Q. Now, tell me; a while ago, before the midday, you stated that
9 Khieu Samphan could use the services of K-1 to send telegrams.
10 When you said that, were you referring to the fact that it was
11 Sem who was working for K-1 who delivered written message to you?
12 Was that what you were referring to? Or you were referring to
13 something else?

14 A. I would like to mention the communication of the messages from
15 Khieu Samphan and his work group, who would send the messages to
16 my team. It could be both through a telephone call or through a
17 messenger -- that is, through Sam's group, who would deliver the
18 message to me. And besides the distribution of materials, which
19 was the content of the message, then the message would first go
20 through to K-1, and some other times the message would come to my
21 group.

22 Q. Very well. But you know nothing else regarding messages sent
23 by Khieu Samphan and which were not subsequently forwarded to
24 your group; is that correct?

25 A. Besides the telegrams and besides the general instructions

1 that need to be transmitted via telegram, I did not know about
2 any other matters.

3 Q. Let me go into another line of questioning.

4 [13.37.24]

5 Before yesterday, you stated -- and you again stated this morning
6 -- and we did understand, through the questions that have been
7 put to you so far -- we've understood that you are accustomed --
8 or you were accustomed -- to copying telegrams to certain persons
9 and placing those persons names at the bottom of those telegrams.
10 And I'm talking of the famous list of copies -- the A list.

11 However, the tribunal does not have all the telegrams you
12 processed between 1975 and 1979. You, yourself, stated yesterday
13 that you burned your entire archive of telegrams.

14 [13.38.20]

15 My question to you is as follows: Since we are talking of a
16 routine -- we are talking of a habit you had, placing a list of
17 names in copy A when K-1 or Pon and Thé told you not to copy
18 certain persons, because they were not present in Phnom Penh. Can
19 you tell us what was the usual list of persons you placed in the
20 column for persons copied -- copied to such and such a person?

21 A. In general, the line "copy to", as you have seen so far -- the
22 word, it means copied to those Uncles: Uncle, Uncle Nuon, Uncle
23 Van, Uncle Khieu, Office, and Document.

24 Usually, there were only seven copies, and the last carbon copy
25 would be kept at my place, because it was not that clear.

1 However, if one of the Uncles was not present -- was absent --
2 for instance, Uncle Ieng Sary had to go on a mission overseas or
3 that Son Sen had to engage in the operation in the East Zone,
4 then I would be informed that, from that day onward, there need
5 no "copied to" for these particular Uncles, so that the names
6 would be excluded from the "copy" line -- "copied to" line.

7 [13.40.49]

8 Q. Yes, I had properly understood that, and I thank you for that,
9 but I would like you to make an effort to recall what the case
10 was.

11 You gave me three names, in fact, Nuon, Van, and Khieu. Could you
12 please try to remember the names of persons involved? Because, in
13 the telegrams we looked at together with you, you didn't mention
14 the name of Pol Pot. Could you therefore make an effort? Please
15 try to endeavour to remember the names of -- names of persons you
16 placed on the list routinely?

17 A. I already told you, there would be seven copies. One would be
18 Uncle -- and Uncle would refer to Pol Pot -- Uncle Pol Pot. And
19 then there would be Om -- Uncle Nuon, Uncle Van, Uncle Vorn,
20 Uncle Khieu. Uncle Khieu did not refer to Khieu Samphan, but to
21 Son Sen. And then Office, and< Document. So a typical "copy to"
22 line would comprise seven copies.

23 Q. Very well. Am I correct in saying that the seventh person or
24 the seventh copy was the one you kept?

25 A. Yes, that is correct.

1 Q. Between 1975 and 1979, did you happen to receive any
2 instructions that you should add the name and the alias of Mr.
3 Khieu Samphan to that list of persons to whom messages or
4 telegrams were copied?

5 A. No. Besides Hem and Khieu Samphan, there was no other name.
6 [13.43.40]

7 Q. My question was that you should explain whether, between 1975
8 and 1979, you copied telegrams -- messages -- to Mr. Khieu
9 Samphan or Hem -- messages that you had decoded. Whether the name
10 you placed in the list of persons whom messages were copied was
11 to Hem or to Khieu Samphan?

12 A. Every message that I worked on, I never saw any instruction
13 that the name of Hem or Khieu Samphan was used. I only saw those
14 regular names, in addition to the Office and the Document. Let me
15 repeat: there would be Uncle, Uncle Nuon, Uncle Van, Uncle Vorn,
16 and Uncle Khieu. So those were the five Uncles identifying the
17 persons. And the other two were not for persons. They were the
18 Office and the Document.

19 Q. I will give you three names, and ask you whether you do
20 remember whether those persons were added to the list of persons
21 copied at any point in time.

22 Do you remember placing the name Koy Thuon among the names
23 copied?

24 A. No, I cannot recall that.

25 [13.46.04]

1 If a message was to be sent to Koy Thuon, there would not be
2 many, and I did not have any instructions regarding any message
3 to send to him.

4 Q. Do you recall mentioning Ney Sarann alias Ya, as a person
5 copied? Let me repeat what I said. It appears that my
6 pronunciation is very bad. Let me repeat it a second time. The
7 name is Ney Sarann alias Ya.

8 A. No.

9 [13.47.08]

10 Q. How about Ke Pauk?

11 A. I never copied to Ke Pauk, but there were signatures of Pauk.
12 He was the one who sent some of the telegrams.

13 Q. Very well. Another question; during the period when you worked
14 in Phnom Penh, did you receive any messages for decoding which
15 had been specifically addressed to Khieu Samphan? That is,
16 messages from outside and which were specifically addressed to
17 Mr. Khieu Samphan as a main recipient?

18 Did you ever have to decode such messages between 1975 and 1979?

19 A. No, I never saw it. I never saw his real name or his alias in
20 the "copy to" line.

21 Q. From your experience between 1975 and 1979, did you observe
22 any changes in the subject of message that Mr. Khieu Samphan
23 asked you to decode? You have made mention of a number of
24 subjects to tribunal investigators and even to the Chamber.
25 You've talked of distribution of supplies, the National Day

60

1 celebrations.

2 [13.49.42]

3 Between 1975 and 1979, did you observe any change in the kind of
4 subjects that -- on which Mr. Khieu Samphan sent messages to you
5 for decoding?

6 A. There was nothing new or there was no change to any of his
7 messages, besides the typical one.

8 Q. The next series of questions will focus not so much on the
9 substance of your testimonies, but on the manner in which the
10 testimonies were taken by tribunal investigators.

11 In reading the transcript of your first interview with tribunal
12 investigators, which supposedly took place on the 18th of
13 February 2009 -- in any case, that is the date on record, and it
14 is also the date of the audio recording which we have in our
15 possession -- I noted that at a point in time one of the
16 investigators tells you -- and this is on the audio with the
17 reference D200/3.11 -- and it is on the first page. The French
18 ERN is 00843061; in English it is 00844056; and the Khmer ERN is
19 00838453.

20 [13.52.24]

21 What I was saying was that, in that recording, one of the
22 investigators tells you the following -- and I quote: "Yesterday,
23 you told us about Pang." End of quote.

24 My question to you is as follows: Do you remember that, on the
25 eve of the 18th of February 2009 -- that is, the day before --

1 you also met tribunal investigators?

2 MR. ABDULHAK:

3 Mr. President, if I may be heard.

4 MR. PRESIDENT:

5 Yes, the Prosecution, you may proceed.

6 Witness, please wait.

7 MR. ABDULHAK:

8 I think there's a danger here that we might misrepresent the
9 state of affairs. I don't want to accuse my friend of doing that.

10 I just want to point out that, in fact, the relevant record --

11 E3/64 -- indicates that the interview took place over two days.

12 Now, I note the transcript is dated on the 18th of February, but
13 we don't know where that date comes from. And I just would urge
14 my learned friend to proceed carefully, because we don't know
15 whether that discussion, referring to yesterday, was on the 18th
16 or the 19th.

17 [13.54.05]

18 I'm not sure if the witness recalls, but I want to make sure that
19 we're not introducing a controversy that may not be there at all.

20 MR. VERCKEN:

21 I have not properly understood the main thrust of the
22 prosecutor's submission. Let me look for the passage in which it
23 was indicated that the interview lasted two days. Perhaps I would
24 be able to respond more effectively if I were to locate it.

25 MR. ABDULHAK:

62

1 Yes, I'm happy to assist. In that first record of interview, at
2 ERN Khmer 00328029, French 00411698, and English 00334048,
3 there's a clear reference to the pausing of the interview on the
4 18th, and then a resumption on the 19th, and then, of course, the
5 interview record itself is signed on the 19th. And that's
6 apparent on the second-to-last page.

7 BY MR. VERCKEN:

8 That is exact -- that is accurate, Mr. Prosecutor.

9 [13.56.00]

10 Q. Now, I have another question, still on the same subject.

11 Mr. Witness, do you recall at what point -- on what date the
12 record of the 18th February 2009 interview was read out to you
13 for you to be able to sign it?

14 MR. NORNG SOPHANG:

15 A. I cannot recall it because it's been three or four years now.
16 If I had the document in hand, then maybe I am able to recollect
17 it. I cannot say whether it was the 18th or the 19th.

18 Q. Very well. I will try to refresh your memory by pointing out
19 to you that, on the last page of the transcript of that
20 interview, it is stated that the written record was read out to
21 you on the 27th of March 2009, at 11.45 a.m. -- that is, the day
22 before your second interview, which took place on the 26th (sic)
23 of March. Indeed, the written record was given to the witness on
24 the 27th of March 2009, at 11.45. It was read out to the witness;
25 he did not object to it and signed it.

1 [13.58.09]

2 Do you recall that the record of your interview was given to you
3 one month and 10 days after the interview itself?

4 A. I cannot recall that. I have been so busy in my daily life,
5 and I did not pay particular attention on the exact date in
6 regard to this document.

7 Q. Very well.

8 My question did not have to do with the date on the document, but
9 on the occasion during which you were given the possibility --
10 you are allowed to read the record of your interview to see
11 whether it reflected what you had told the investigators.

12 [13.59.27]

13 Let me point out that, if I go by the documents given to me, it
14 would appear that one month and 10 days elapsed before you were
15 given a paper to read out and ascertain whether it reflected what
16 you had stated and which was written down.

17 My question to you is whether you remember the date of the
18 interview and the date on which you were shown a copy of the
19 transcript of the interview and you signed it.

20 A. Based on my recollection, they came to meet me twice. For the
21 first interview, it took two days, but for the second interview I
22 cannot recall how many days it lasted. But I believe you can find
23 out the period between the first and the second interviews if you
24 read the date on the two interviews. The procedure, before I was
25 asked to sign -- they read back to me and they asked me whether

64

1 the content of what they read reflected the true statement. And
2 they did do all that. They read it back to me before I signed the
3 document.

4 [14.01.28]

5 Q. Very well.

6 Allow me to return to my first question. Regarding an interview
7 that would have been held on the eve of the date; now, the
8 Co-Prosecutor has kindly pointed out to me that, in the written
9 record of witness interview, the first interview lasted two days.
10 And this is entirely accurate. However, the fact that you had
11 talked about Pang before the co-investigators is actually found
12 in the first part of the written record -- that is to say, during
13 the first day. This is ascertained from the transcripts of the
14 audio recordings, as I've pointed out, and it can also be found
15 in the written record of witness interview, which states that,
16 prior to the pause, the Co-Investigators' question, which was
17 supposedly asked on the 18th of May -- you talked to us about
18 Pang. And yet, in the written summary, it appears that you never,
19 at any point in time, talked about a Pang. Therefore, the
20 interview would have occurred at another occasion, and if we are
21 to rely on the audio transcript, then it would have occurred on
22 the 17th.

23 [14.03.37]

24 Do you remember this? If you don't, please say so. Do you recall
25 having met with the tribunal's investigators before the 18th of

65

1 February? And if so, what did you talk about?

2 A. Well, I do not recall that well. There were many questions and
3 it has been a long time, and I have not thought of it since then.

4 MR. VERCKEN:

5 I have no further questions for the witness, Mr. President. Thank
6 you.

7 MR. PRESIDENT:

8 Thank you.

9 I now hand over to the defence team for Mr. Nuon Chea to put the
10 questions to the witness, Mr. Norng Sophang. You may proceed.

11 QUESTIONING BY MR. SON ARUN:

12 Good afternoon, Mr. President. Good afternoon, Your Honours. Mr.
13 Norng Sophang, I am Son Arun. I am the national defence counsel
14 for Mr. Nuon Chea. Good afternoon.

15 [14.05.22]

16 Q. I have a number of questions to you. I know that you have
17 answered some of the questions already, as they were posed by
18 different parties to the proceedings, but, unfortunately, your
19 answer has not been clear enough for us. So I would like to open
20 a bracket here.

21 Yesterday, I observed that, in the afternoon, you appeared very
22 weak and your response to the questions was not that energetic
23 and assertive. So I would like to simply check whether or not
24 your health is good enough, that we can put the questions to you.

25 MR. NORNG SOPHANG:

1 A. Yesterday, I was not well. My blood pressure went up to 18,
2 and then today it goes down to 16. So I am in better shape today,
3 and I will try my level best to provide testimony to the Court.
4 [14.06.41]

5 Q. Thank you, thank you. This is a great contribution and -- to
6 the Court.

7 In 1973, you joined the Revolution by the revolutionary name of
8 Hang in Preah Vihear, and you were selected to work for the Party
9 Centre. At that time, you were attached to B-17. At that time,
10 you were 21 years of age; is that correct?

11 A. I did not really recall the exact age I joined the Revolution
12 and that office, but at that time, it was in 1973, and now I am
13 60 years old. I think that we have to do a little of a mathematic
14 here, but it could have been around 20 or so years of age. It was
15 around 21 or so.

16 Q. Thank you.

17 Prior to joining the Revolution in 1973, what was your
18 occupation? According to the document we have, you mentioned
19 that, prior to 1973 you were a primary school teacher; is that
20 correct?

21 A. Yes, that is correct.

22 [14.08.40]

23 Q. Thank you. Upon joining the Revolution, Mr. Pang was the head
24 of the Telegram Unit attached to B-17, and this unit was
25 stationed at the rear, and that was your testimony earlier. As

67

1 for the telegraph -- telegrams which were supposed to be sent to
2 the upper authority -- was addressed to Brother Pol most of the
3 time, and once in a while it was addressed to Brother Nuon.

4 So, my question to you is whether or not you knew the content of
5 those telegrams sent to either Brother Pol or Brother Nuon?

6 A. For messages and telegrams we decoded -- in 1973 onwards, I
7 had to do it, and at the same time I learned about it. And it was
8 in 1974 when I changed the place. Actually, it was located in the
9 banana grove somewhere. It was -- it was in the premise of B-20.
10 It was not in B-17.

11 And when I was working in the forest, most of the telegrams and
12 messages was meant to be sent to Brother Pol. As for the content
13 of the messages for Brother Nuon, as I said earlier, it was the
14 information and development of the situation at the rear which
15 had already been liberated.

16 [14.11.26]

17 Q. In each and every message which you had in your possession -
18 normally, there was the heading -- the letterhead. And on the
19 upper part of the telegrams, it has a salutation which referred
20 to individual recipients; namely the senior Brothers. So, on the
21 salutation, there was "Dear Recipient" -- someone. And then, down
22 below, at the bottom, there was a carbon copy for people whom
23 this letter or message was intended to be sent to, as well;
24 correct?

25 A. Yes. On the heading, there was a salutation, but at the

68

1 bottom, it was not the carbon copy. But down below the message,
2 if you look at the format -- the general format -- there was a
3 closing. They mentioned that -- they mentioned a lot of
4 congratulatory message or courtesy message or so, saying "with
5 warmest revolutionary fraternity", and things like that and it
6 varied depending on the writer of the -- or the author of the
7 message. And then they also mentioned the date of the telegram as
8 well. And then, finally, it is followed by the signature of the
9 author. So there was no carbon copy down below because the
10 intended recipient was mentioned in the salutation and the
11 opening paragraph, already, so the carbon copy was the
12 responsibility of those who were in the Telegram Unit to add
13 those who were supposed to be copied to.

14 [14.14.08]

15 Q. You told the Court, just now, that at the salutation, they
16 addressed to the intended recipient, but then down below, there
17 was a signature of the author. I look at numerous telegrams and
18 there were only the names of individual author. Why didn't they
19 affix their signature there? Why was there only the name, not the
20 signatures there? Was that the usual practice of telegrams or
21 messages in the telegram at that time?

22 A. The signature did not have to be the signature that we signed
23 it but, actually, it could merely bear the name of the author of
24 the message.

25 [14.15.16]

69

1 Q. Let me be precise on this, the signature. Are you trying to
2 say that the name -- the name of the author was considered a
3 signature and there was no need for an additional signature and a
4 name for each message; is that what you are trying to say?

5 A. No, I was wrong earlier on. Actually, the name of the author
6 of the message in the telegram was the signature. They would not
7 affix any signature or initial on the telegram. They could not do
8 that by themselves.

9 Q. Thank you. Upon receiving telegrams concerning the plan to
10 attack Phnom Penh and to liberate Phnom Penh and that telegrams
11 were also about the logistics and other ammunition and so in
12 order to be used to attack Phnom Penh, can you tell the Court
13 where that telegram was sent from and who was the intended
14 recipients of that telegram?

15 A. I had not received any telegrams concerning the attacks on
16 Phnom Penh or the liberation of Phnom Penh, but as for the
17 telegrams concerning the ammunition, materials, supplies, and
18 distribution or so, to my recollection, when I was stationed in
19 the forest, there was one person who was responsible for
20 logistical support. He was known as Ya and he was the one who
21 managed the supplies of material to the Front. He was the one who
22 knew how much ammunition we had and how much supplies we had to
23 provide to the Front. And he was the one who affixed this
24 signature concerning the materials and weapons and stuff like
25 that. And, at that time, if I still remember correctly, the

1 undersigned of the letters was Ya.

2 [14.18.56]

3 Q. You were later in charge of a Telegram Unit attached to the
4 Centre. You were tasked to decode telegrams at the Centre
5 Committee. How far was your office from the resident office of
6 the leaders? Just an approximate distance, how far was it?

7 A. Well, when I was stationed in the forest, I did not have any
8 -- I mean I did not or I was not entitled to go freely or enter
9 the office of the leaders. And, at that time, it was deep in the
10 jungle and we -- we could not actually know exactly where the
11 leaders' office was and how far was it; was not known to me as
12 well. And, at that time, I had to study about the telegrams and
13 things like that on the job when I was doing it and I did not
14 know how far the -- the leaders' office was from the place where
15 I worked.

16 [14.20.39]

17 Q. Then, when you moved to Phnom Penh -- of course, Phnom Penh
18 was not the jungle, so you could probably know the distance from
19 where you worked and the office of the leaders. How far was it?

20 A. My office was located in Sothearos Primary School, and the
21 leader office was in the K-1 premise. And you might have already
22 seen in the photograph, it was the two multi-storey buildings
23 along the Tonle Basak River. The exact distance from my office
24 and that of the leaders, I did not know precisely, but it was not
25 far. It was approximately 1 kilometre or so.

1 As for the logistic and material supply unit, I did not know how
2 far was it from my office because I had never been there myself
3 and I had never measured it either.

4 Q. Thank you. The working procedures of Telegram Unit -- you
5 never had any direct contact with the office of the leaders.
6 Then, through -- whom did you contact with the Centre -- through
7 Pang or others?

8 A. The communication, back then, was by means of telephone, at
9 that time; that was the primary means. For example, when Pon
10 wanted to contact me, then, he would call me. And, in certain
11 instances when they had any messages, they would come in person
12 to see me and send them to me.

13 [14.23.38]

14 Q. According to your testimony earlier that there was a close
15 proximity between the office of the leaders and that of yours,
16 did you ever see the leaders come to your unit or did they ever
17 invite you to come over to their office?

18 A. It is true that my office was not far from K-1, and I sometime
19 saw the leaders drive past the -- my unit; for example, Pol Pot
20 could have driven past my unit. So they commuted back and forth
21 passing my unit to K-1.

22 Q. Did you ever meet or see Nuon Chea?

23 A. I saw him once. He once went to my unit. He brought along with
24 him short messages and telegrams inviting cadres to attend the
25 meeting sometime in 1977. That was the only time I met him when

1 he went to visit my office.

2 [14.25.55]

3 Q. Thank you. So, it is fair to say that Mr. Nuon Chea visited
4 your office in person. Did Mr. Nuon Chea talk to you then, when
5 he was there?

6 A. No, we did not talk to each other. He only handed over the
7 message to me and my team and instructing us to decode the
8 messages. He did not say anything much then.

9 Q. And then, later on, did you ever meet Nuon Chea on any other
10 occasions?

11 A. No, I didn't.

12 [14.27.05]

13 Q. You were working with the Democratic Kampuchea Government and
14 you met Mr. Nuon Chea only once. What can you say about the
15 personality of Mr. Nuon Chea? Do you think that Mr. Nuon Chea was
16 a person of cruel nature? Was he abusive? Was -- were -- were he
17 aggressive or so?

18 A. It was my own observation of the personality trait of Mr. Nuon
19 Chea and other leaders; they are of the respectable quality. They
20 were not people who liked to abuse their power. They were not
21 people whom we are terrified of. We never saw them arrest or kill
22 anyone, by our own eyes; we have never seen that. They were of
23 high moral value. And, in addition, they were senior and educated
24 people, and we had respect for them. We never imagined that they
25 could have been the murderers or the perpetrators of the crimes

1 of serious nature.

2 [14.29.03]

3 Q. Thank you.

4 I would like to ask you to tell the Court about the sketch of
5 figures you have, so far, sketch; document D200/9.12. I think you
6 have this document before you.

7 This sketch outline, you have recognized that this belongs to
8 you; do you confirm this?

9 A. The sketch outline was drawn by me, myself. I confirm this.

10 Q. Thank you. I have a few related questions to this sketch
11 diagram. On this sketch, there were four large rectangular boxes.
12 From the furthest left, in the box, there is writing; "870 - K1".
13 And above that, there is a line which states "Communication
14 Network".

15 And, for the second box, it reads "870 Committee," "K-1"
16 underneath.

17 And, to the right of the box, can you clarify the two -- the
18 first two boxes which includes both "870 - K1" and "870 Committee
19 K-1" on the second box? Do they bear the same meaning?

20 [14.31.25]

21 A. These two boxes are different. One reads "Communication
22 Network". These are so at K-1 and that communication network
23 belongs to 870. And there were those who were in charge of the
24 telecommunication as part of K-1.

25 As for the other box, it reads "870 Committee". It refers to an

74

1 institution of the Centre which was known as 870 Committee where
2 Pol Pot was the head of that committee and he also had his
3 residence within K-1 premises and his office was also within the
4 compound of K-1.

5 Q. Thank you. And the third box, it says "The State Presidium,"
6 and underneath is an abbreviation of a name and then there was a
7 point -- an arrow pointing downward, indicating the ministries,
8 namely: "Ministry of Information and Propaganda, Hu Nim; as for
9 Education, Yun Yat; Social Affairs, Ieng Thirith; Mine and
10 Energy... ; Economy and Finance, Vorn Vet". But I believe you made
11 an amendment yesterday regarding a person here, Vorn Vet. And
12 then, for the Foreign Affairs, you state "Ieng Sary".
13 Are you referring here to the government or to a committee?

14 [14.33.56]

15 A. Here, I'd like -- in fact, I intend to show another
16 institution which was also the high institution within the
17 Democratic Kampuchea and that is the State Presidium. And the
18 abbreviated name that I wrote would read "Khieu Samphan" who was
19 then the President of the State Presidium. And I already
20 explained the downward arrow pointing to the ministries. It
21 indicates that this is a civil administration within the
22 government. It comprises a number of ministries, as I explained
23 already. And the word "dot, dot, dot" next to "Mines and Energy"
24 is that I did not know who was the minister.

25 Q. Thank you. So, as you state, under the State Presidium, there

75

1 were various ministries.

2 But the question is: Did -- the Defense Ministry under the
3 authority of Son Sen was not part of the government? Because I
4 saw the arrows coming down from the second box -- that is from
5 the 870 Committee. You indicated that there was one Defense
6 Ministry and then Son Sen; was it also a ministry? And if it is a
7 ministry, why it is not part of those ministries?

8 [14.36.04]

9 A. Because I did not grasp the details regarding the Defense
10 Ministry. I was not sure whether the Defense Ministry was under
11 the supervision of Khieu Samphan and, due to that uncertainty, I
12 put it aside. The Defense Ministry had its own authority to
13 control all the military; either navy or the soldiers or the
14 divisions. I put it aside because, in practice, it seems that
15 Khieu Samphan did not have any influence over the military. So I
16 put it next to those ministries, but I did not put it under Mr.
17 Khieu Samphan.

18 Q. So you are, yourself, not sure of the -- of the infrastructure
19 of the government; is that correct?

20 A. That is true in regard to the infrastructure of the government
21 at the time.

22 Q. At that time, did you ever hear of the Ministry of Security or
23 the Interior Ministry?

24 A. I heard about security. Security came under the Ministry of
25 Defense where Son Sen supervise.

1 [14.38.21]

2 Q. Thank you. So it means that you forget to include the Ministry
3 of Security and the Defense Ministry; is that correct?

4 A. Son Sen was the Deputy Prime Minister in charge of Defense
5 Ministry and he was also in charge of internal security
6 throughout the country. So I did not put the ministry -- or
7 another Ministry of Security because the Defense Ministry
8 encompass all those elements including security.

9 Q. Thank you. Now, let me move to the fourth box, -- that is,
10 "the Peoples' Representative Assembly". Underneath, you put the
11 name "Nuon Chea". And under Nuon Chea, you wrote "No. 03". And,
12 next to it, there is another box; it reads "Court". What does
13 "No. 03" mean? And what does "Court" mean?

14 [14.40.13]

15 A. There are a number of matters that I intend to put into this
16 case during my interview with the OCIJ investigators. This is a
17 separate matter when it comes to number 03CK105. For instance,
18 here the OCIJ investigators referred to another separate matter.
19 It was not part of the main boxes or under the authority of Nuon
20 Chea. It refers to the communication. For instance, for a matter
21 of urgency or if the -- any of the leaders or if any of the base
22 requires an immediate response from the upper level, they did not
23 need to revise the message again. They would just request them to
24 respond to the previous message, number 03, or the word "DD"
25 indicating the level of urgency of the matter. So these are the

1 identical aspects of requesting for immediate response to
2 previous message sent and that dealt with how communication
3 worked between the zones and the upper level.

4 In regard to the box with the word "Court", in fact, I want to
5 put the court at the same level as the other boxes because it was
6 also part of the government. And, according to the broadcast on
7 the radio, Kang Chap was the President of the Court.

8 So let me emphasize that, in fact, during the Democratic
9 Kampuchea regime, there were four main institutions; namely, 870
10 Committee, the State Presidium, the Peoples' Representative
11 Assembly, and the Court. So these were the highest institutions
12 within the Democratic Kampuchea Government.

13 [14.43.20]

14 Q. Thank you very much for your clarification regarding the four
15 bodies of the government at the time. Does it mean that there was
16 a separate judicial body separate from the other three bodies?

17 A. Yes, within the organization of the state, there was this
18 legislative -- there was this judicial power which was separate
19 from the other bodies -- that is, separate from the Peoples'
20 Representative Assembly and the State Presidium. And it was
21 similar to the other structures of the governments in the world.

22 Q. Thank you very much for your clarification regarding the four
23 bodies of the government.

24 My question to you is the following: At that time, Nuon Chea was
25 the head of the Peoples' Representative Assembly; is that the

78

1 fact that you know or did he have any other role or function?

2 A. Regarding the role and the function of the leadership level, I
3 could not know in detail. I did not know about their other tasks
4 besides their role and their function displayed to the public and
5 displayed to the world. I was like the rest of the people in the
6 country and in the world that he was the head of the Peoples'
7 Representative Assembly and I did not know about any other
8 function or role.

9 MR. SON ARUN:

10 Thank you.

11 MR. PRESIDENT:

12 Counsel, how many more questions you have for this witness?

13 The time is now appropriate for a short break and we shall take a
14 break and resume at five past 3.00.

15 Court Officer, could you assist the witness during the break and
16 have him returned to the courtroom at five past three?

17 THE GREFFIER:

18 (No interpretation)

19 (Court recesses from 1446H to 1505H)

20 MR. PRESIDENT:

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

22 I hand over to the defence team for Mr. Nuon Chea to continue his
23 line of questioning. You may proceed.

24 BY MR. SON ARUN:

25 I have only the last few questions to ask to this witness before

79

1 I hand it over to my esteemed colleagues.

2 [15.07.13]

3 Q. I would like to now refer to document E3/64, your written
4 record of interview with the OCIJ. The question asked to you at
5 that time was who Yem and Doeun were, and you said you did not
6 know for sure. You said that Yem could have been members of the
7 Assembly and Doeun could have been the chairman of any one
8 offices with Mr. Khieu Samphan or Mr. Nuon Chea or he was -- he
9 could have been a chairman of the North Zone Committee. And you
10 used the words "could have been". It implies that you were not
11 sure; it was your assumption that that was the case. Is that a
12 fair summary of that statement, it was your assumption of the
13 position they held?

14 [15.08.27]

15 MR. NORNG SOPHANG:

16 A. Yes, at that time, I used the words "they could have been",
17 and I also used the word "perhaps" as well because I was not
18 sure. But when I came to testify before this Chamber, I learned
19 that the words -- that the testimony that I was not clear -- was
20 not sure was not used by the Court. So I would like to request
21 the Court to remove the words -- and that I used the word
22 "perhaps it could have been" or so. I would like them to be
23 removed -- the words according to my assumption or so. I would
24 like to remove all the paragraph and statement which I only make
25 inference or so to any event.

80

1 Q. Thank you very much for clarifying this. And this is the
2 second time that you have mentioned about this issue.

3 [15.09.50]

4 Now, I would like to stay on this particular written record of
5 interview. At that time, the OCIJ ask you what Nuon Chea had to
6 do with this telegram and then you told them that that telegram
7 was meant to be sent solely to Pol Pot, but then the Telegram
8 Unit learned that this telegram was supposed to be sent to people
9 who were in charge of addressing problems with the public and
10 people and Nuon Chea was responsible for that at that time. And,
11 according to your statement, you said the order was -- or the
12 telegram was to be sent to the person who was in charge of the
13 people and Nuon Chea was in charge of the people.

14 Can you enlighten the Court on this because Nuon Chea, at that
15 time, was the Chairman of the Peoples' Assembly and why was Nuon
16 Chea responsible person for the people because he was merely the
17 President or Chairman of the Peoples' Assembly back then?

18 [15.11.22]

19 A. Frankly, I did not know the detail of the management handled
20 by Pon but, at that time, the investigator of the OCIJ asked me
21 to help analyze the situation and explain what happened, so, at
22 that time, I explained that it could have been this or it could
23 have been that. So, on this particular -- at this particular
24 juncture, I also said, again, that it was not under my
25 responsibility and neither was it within the assigned task I had

81

1 to handle.

2 And in that particular message, there was an instruction, clearly
3 there, that it was to be sent to Brother Pol. But when we screen
4 through the content of the message, we learned that it was not
5 meant for Brother Pol alone, but there the potential recipient
6 could be many. That's -- that's what I told the investigator of
7 the OCIJ then. So that's why the Telegram Unit produced a --
8 annotations that it was to be sent to Brother Nuon but, actually,
9 they came to the decision that this telegram had to be sent to
10 Brother Nuon and, at that time, that was my explanation. That's
11 all I can clarify on this particular point.

12 Q. Now, I am coming to my last question for -- for you.

13 Yesterday, the lawyer for the civil parties asked you that if
14 anyone committed any wrongdoing or moral misconduct in their
15 daily life what happened to them. And you, in response to this
16 question before the OCIJ, said that if anyone committed any
17 immoral conduct, that matter was referred to Mr. Nuon Chea.
18 My blunt question for you: Why should it be under the
19 responsibility of Nuon Chea? Because Nuon Chea was the Chairman
20 of the Peoples' Assembly; he had nothing to do with this kind of
21 thing.

22 [15.14.24]

23 A. I would like you to look at this statement again. If I mention
24 anywhere in my statement that, it could have been so it was my
25 assumption.

1 MR. PRESIDENT:

2 Prosecutor, you may proceed.

3 MR. ABDULHAK:

4 Your Honours, two points of order.

5 First of all, counsel is referring to portions of the statement
6 and references to exhibits. He should provide the -- the correct,
7 exact ERNs and document numbers so we can all follow.

8 [15.14.57]

9 Secondly, I didn't object the first time, but I will object now.
10 My learned friend is misrepresenting his client's positions
11 during the period. I believe his client has, himself, accepted
12 that he held the position of Deputy Secretary of the CPK. To be
13 putting to the witness a proposition that is simply not true is
14 improper and it leads to confusion and potentially incorrect
15 evidence being adduced. So I will just say, on that second point,
16 if my -- if my friend wishes to -- to put to the witness his
17 client's positions, then he should state in full and not
18 misrepresent that -- that Nuon Chea was merely the President of
19 the Peoples' Representative Assembly because that is not the
20 case.

21 MR. SON ARUN:

22 I would like to respond to my learned colleague from the
23 Prosecution. I did mention the document number and there was no
24 objection when I mentioned this document number and when I
25 started my question concerning this document.

1 [15.16.20]

2 And in my first and second questions, I did mention that I refer
3 to the same document, but the -- the difference were the
4 questions. And the witness did enlighten us on the question I
5 ask, but the very last question I ask, the witness simply wanted
6 to double check whether or not he had used the word "could have
7 been", or "perhaps", or so that he was not sure about that
8 situation. That was all, actually, and there is nothing else.
9 And that is all for me as well.

10 MR. PRESIDENT:

11 International Counsel for Mr. Nuon Chea, do you have any
12 questions to put to the witness? If so, please proceed.

13 QUESTIONING BY MR. IANUZZI:

14 Thank you, Mr. President. Good afternoon, everyone. Good
15 afternoon, Mr. Witness. I do have some questions. Mr. Witness,
16 good afternoon. I, along with Major Son Arun, the gentleman who
17 just asked you questions, I represent Nuon Chea. I have some
18 further questions I'd like to put to you.

19 [15.17.51]

20 And before I do that, just let me begin -- let me begin by
21 thanking you. I'd like to thank you, not only for coming here to
22 answer all of these questions -- I know it's -- it's been a long
23 time, it's been a hard task, but also I'd like to thank you for
24 telling us, as you've done so many times since you've been here
25 -- over and over, in fact -- if and when you don't know

84

1 something, when you don't know the answer to a particular
2 question. And just let me say that we're -- we're grateful for
3 that kind of candour.

4 Q. Now, if I could just start with something which, hopefully,
5 will save me some time and -- and allow me to finish today so I
6 don't have to continue into tomorrow. I'd just like to confirm
7 one or two things with you, and I'm doing this only so that I can
8 properly understand your evidence and so that it's very clear for
9 me on the record.

10 [15.18.40]

11 So, first of all, you've told us -- you've told us that although
12 there was a system in place at the base level and, in -- in
13 particular, at the zones -- I think you said -- to confirm the
14 receipt of telegrams once they'd been sent out from K-18, I
15 believe, you, yourself, told us that you could not confirm
16 whether those telegrams were actually -- that were actually sent
17 were always received. And I just want to make sure I have that
18 correct that you, yourself, were not in a position to confirm
19 whether all the telegrams that were sent out were received; have
20 -- have I got you right?

21 MR. NORNG SOPHANG:

22 A. Yes, that is correct. I was not in that position because it
23 was beyond my ability that I had to follow up with that.

24 [15.19.38]

25 Q. Thank you very much, Mr. Witness. And -- and something else

85

1 which I believe you told us was beyond your ability -- and I'm --
2 I'm asking now so that I can confirm it and this is something you
3 said this morning in response to a question by my colleague, on
4 my right, Mr. -- Mr. Kong Sam Onn, for the Khieu Samphan team. I
5 believe -- I believe what you told him was that, in actual fact,
6 you didn't know whether any of the telegrams that you dealt with
7 reached their intended recipients. You didn't know that for a
8 fact. You can't confirm that. Did -- did I get you right on that
9 point? You didn't know whether telegrams actually reached their
10 intended recipients; in particular, those people whose names were
11 on the telegrams; is that correct?

12 A. Yes, that is correct. I was not sure whether or not those
13 telegrams reached all of them.

14 Q. Thank you. And just one last question on this point -- just to
15 be crystal clear as -- as my friend across the stage would say --
16 is it fair to say that the outer limits of your field of
17 knowledge; that is, the things that you, yourself, would
18 personally know about, with respect to those telegrams you told
19 us about that were placed in envelopes -- envelopes that were
20 labelled K-1; is it fair to say that the outer limit of your
21 knowledge as to the fate of those telegrams was that guard booth
22 or that box that you described, in front of K-1, on several
23 occasions; is that correct?

24 [15.21.29]

25 A. It was not in the envelopes placed at the gate of K-1, but all

86

1 the messages had to go through this gate where there was a -- a
2 guarding post to receive the incoming letters or so. So we had to
3 go through that so we did not send it in the envelopes through
4 post or so, but it was, actually, sent to K-1, and there was
5 people who was standing -- guarding the premise who convey this
6 letter to others.

7 Q. So, just so I understand you clearly, those envelopes that you
8 described which were labelled K-1, they were deposited or dropped
9 off outside of K-1 and then somebody else took it from there; is
10 that correct?

11 A. Yes, there were people guarding 24 hours around the clock, at
12 the guard post, right in front of the main building.

13 [15.23.02]

14 Q. Thank you, Mr. Witness. And so -- so what actually happened to
15 those telegrams beyond that box that was, as I believe you've
16 told us, solely Pon's domain and not your own business? Do I have
17 you correct?

18 A. The guards at K-1 would convey the letters to Pon and Pon was
19 the one who continued to circulate these letters.

20 Q. Thank you, Mr. Witness. That, I believe, will save me a great
21 deal of time. Let me move on to one particular -- a general item
22 and then we'll eventually return to some additional specific
23 matters.

24 [15.24.08]

25 My colleague, Major Son Arun, asked you some questions -- asked

1 you a question already about those assumptions you referred to
2 and you gave us a very clear answer on how you thought the
3 Chamber should deal with those assumptions that you made to the
4 OCIJ investigators. I'd like to ask you another question, a
5 different question, about something you said about your time with
6 those OCIJ investigators, and I think it's probably easier if I
7 just quote from the draft transcript so I don't misstate or
8 mischaracterize what you've said.

9 And this was from yesterday's evidence, and I believe this is
10 something that you said to one of the civil party lawyers, and
11 I'm quoting now from the draft transcript, that's Tuesday, 4
12 September, page 53, line 7. And you said:

13 "At that time, I did not know when these people disappeared or
14 removed -- or were removed [you said]. The investigators tried to
15 ask me this question time and again; I already stated very early
16 that I did not know from the beginning. First, he asked me to
17 explain about the removal of people, and I started to explain on
18 this. But then more and more questions were bombarded on me on
19 Pang and Thé, [...] and the statement; and indeed, the statement
20 could not be used as the evidence because, as I said, I didn't
21 know. And I do not know what happened to the removal of people at
22 the base. I do not know how this worked."

23 [15.25.48]

24 Now, what I'm interested in is a phrase that you used in that bit
25 of testimony. You mentioned that you were bombarded somehow by

1 the investigators.

2 What did you mean by that? Did you mean to say that at times
3 during the time you spent with the investigators when you didn't
4 know something or when you made it clear that you didn't know
5 something -- that those investigators continued to press you with
6 questions because they weren't satisfied with your answer or did
7 you mean something else? Maybe you could explain to us what you
8 meant by the "bombardment" passage.

9 [15.26.25]

10 And, Mr. Witness, please don't answer it yet, my colleague is on
11 his feet across the stage.

12 MR. ABDULHAK:

13 Your Honours--

14 MR. PRESIDENT:

15 Witness, please hold on.

16 And, Mr. Prosecutor, you may proceed.

17 MR. ABDULHAK:

18 Your Honours, I'm reluctant to interrupt my learned friend's
19 examination, but we would object on the basis of relevance.
20 We've heard the first-hand evidence from the witness. We've heard
21 his explanations as to the limits of his knowledge. We've heard
22 his clarifications. We've also heard him confirm numerous parts
23 of his statements, and we've heard him provide clarification
24 where clarification is necessary.

25 [15.27.10]

1 We do not -- we would submit that questions that go to the
2 techniques adopted by the investigators in this instance are
3 simply irrelevant. If my learned friend wishes to test the
4 witness's knowledge by reference to the prior statement, ask what
5 he meant in that statement and how that differs from what he says
6 today, that's entirely appropriate, but questions about
7 techniques and questions asked in an OCIJ interview are
8 irrelevant. We have the witness here and we can deal with the
9 facts with the witness.

10 MR. IANUZZI:

11 If I may just briefly respond, obviously I take a completely
12 different position.

13 It has long been our position that those very techniques that the
14 investigators used during the investigation, the propriety of
15 those techniques, the substance of those techniques, the style of
16 those -- all those things, as we've said time and again, are
17 relevant, relevant to the question of the quality of the evidence
18 that is now put before your Chamber in terms of these witness
19 statements, many of which -- many of which, based on your
20 rulings, we are going to be relying on in some form or another,
21 without calling witnesses, without adversarial testing.

22 [15.28.28]

23 So it is our firm position that these techniques are clearly
24 relevant. They're relevant to the quality of the OCIJ
25 investigation. And I think this witness -- he's here, he's

1 sitting with us, he's told us about a bombardment -- I think he
2 can very easily tell us what he meant by that. It could be that
3 it's completely innocuous, and he would be the one to tell us.

4 MR. PRESIDENT:

5 (No interpretation)

6 MR. KARNAVAS:

7 Good afternoon, Mr. President. Good afternoon, Your Honours, and
8 good afternoon to everyone in and around the courtroom. I wish to
9 support the response provided by counsel for Nuon Chea and wish
10 to add the following.

11 [15.29.17]

12 The -- these events happened nearly 40 years ago. How the
13 investigator -- investigation was conducted in taking the
14 summary, what was done in that process to assist the gentleman in
15 remembering events, showing him documents that may have refreshed
16 or created memory, these sorts of techniques are the sort of
17 areas that we are entitled to explore because it goes to the
18 credibility of the witness's actual memory and his understanding
19 of the events at the time when they occurred, or with the
20 knowledge that he had at that time, and not the knowledge that he
21 may have been provided by the investigators. This is a line of
22 questioning that was pursued in the past.

23 Obviously, the Prosecution would like to have any inappropriate
24 conduct related to investigations not be explored, for all the
25 obvious reasons.

91

1 We think this is an absolute necessary process. It's done before
2 all the other tribunals. We're using international standards.
3 There's no reason why we should not be able to use these same
4 standards in this courtroom here. Thank you.

5 [15.30.43]

6 MR. PRESIDENT:

7 The Defence Counsel, you may proceed.

8 MR. VERCKEN:

9 Very briefly, Mr. President, I wish to lend my support to the
10 comments made by my learned friend on this side of the Chamber.
11 In a trial of this case, it is important to have rules; rules of
12 honesty, rules of integrity, rules regarding technical
13 questioning of witnesses as we've already seen here in this case
14 and in the past. If we are to rely on the written record of
15 witness interviews produced by the co-investigators who may have
16 interviewed this gentleman prior to 18 February and there's no
17 record or recording of the interview, this is something that
18 should be raised with the witness.

19 [15.31.42]

20 This is of paramount importance, and I, therefore, fully support
21 the request and application that has been forwarded by my learned
22 friend.

23 MR. PRESIDENT:

24 Do you stand on your feet on the same matter or do you have an
25 additional matter to raise, Counsel? Do you need to continue to

1 put question to the witness or do you need just to take the floor
2 to reply to one another?

3 MR. IANUZZI:

4 I was just about to explain that I what I was about to say was,
5 with your leave, I would like to add one very brief additional
6 point -- and I promise not to make a habit of this -- but I think
7 something that needs to be said is this sense that we're dealing
8 with a cured investigation, that the Closing Order cured the
9 faults -- any faults -- there may have been in the investigation.

10 [15.32.42]

11 We've been here for almost a year now and I think we can all
12 point to numerous, numerous, occasions of what I will call
13 irregularities where statements don't match; we get audio
14 recordings that are off by several, several, hours. I think we've
15 passed the point of rebutting any presumption of regularity that
16 attaches to the judicial investigation, and I think that's a
17 point that needs to be made. These are serious issues.

18 We can't test all this evidence, we don't have time. As -- I
19 mean, this was one of the things that was the main -- one of the
20 main topics at the Trial Management Meetings. We're running out
21 of time. We don't have time to test this evidence.

22 Even today, the point I raised this morning, we get a transcript
23 of a Witness Statement who's been on the stand for three days
24 after he's been on the stand for three. So these things are
25 happening after the fact on a very ad hoc basis, and I just want

93

1 to make it clear that I don't think this Chamber should, should,
2 attach any presumption of regularity to the OCIJ's investigation.
3 And I apologize for not saying that the first time. As I said, I
4 won't make a habit of adding comments at the end.

5 [15.34.04]

6 MR. PRESIDENT:

7 First, let me remind you that the Chamber has observed the
8 frequency of these objections and reply.

9 If I'm not mistaken, you should refer to the declaration by the
10 Chamber to the witness of his rights and obligations that he must
11 tell the truth that he have heard, have learned, have known, and
12 have experienced or observed regarding the events related to the
13 questions put to him by the Chamber or any of the parties. That
14 is the duty of the Chamber to inform the witness. And if there is
15 -- even if there is no objection, the Chamber already informed
16 the witness that they cannot make a presumption or a conclusion
17 as the witness is not an expert who can make a conclusive
18 statement based on the expertise.

19 [15.35.16]

20 You also said it is important - and of course the Chamber already
21 repeated that point and stresses it once again -- that counsel
22 should put your request in writing to represent all those aspects
23 so that the Chamber would have the grounds to decide on your
24 submission regarding a particular matter and that we can rule on
25 that.

94

1 [15.35.49]

2 As you understand, there are millions of pages of document in the
3 case file. It is very difficult to categorize all the documents
4 into its specific category. Even up to today, there's still new
5 issues arising out of the documents issues and we are facing the
6 same issue again today.

7 And you said that it is a very serious matter, and when it is
8 objected by the Prosecution, you raised it is a serious matter.

9 And if you know it is a serious matter, then please put your
10 submission in writing to the Chamber so that the Chamber can
11 deliberate on your submission and rule on it.

12 MR. IANUZZI:

13 Thank you for that clarification, Mr. President.

14 Am I to understand that I should be putting replies to objections
15 in writing? Is that what you've just told me?

16 [15.36.55]

17 I asked a question, the Prosecution objected on the grounds of
18 relevance, I stood up to respond or to reply to tell the Chamber
19 why I thought it was relevant--

20 MR. PRESIDENT:

21 We will rule on this objection now. We will not put this witness
22 in waiting while we are debating this issue, but you took the
23 opportunity to raise that it's a very serious issue and it's been
24 going on for a long time. That is the point that I'd like to
25 stress. And if you think it is of great importance and that it

1 happens regularly, then you should put it in as a submission in
2 writing setting your grounds for it.

3 MR. IANUZZI:

4 Thank you again for that clarification. Are -- oh, sorry, sorry.

5 (Judges deliberate)

6 [15.45.13]

7 MR. PRESIDENT:

8 In order to rule on the matter at hand, I'd like to give the
9 floor to Judge Lavergne to respond to this matter.

10 As for the defence counsel who puts question to this witness,
11 please try to slow down so that we will have an accurate record
12 of the questions as well as an accurate interpretation.

13 Judge Lavergne, you may proceed.

14 JUDGE LAVERGNE:

15 Thank you, Mr. President.

16 [15.45.57]

17 The Chamber would like to point out that it is seized of a number
18 of motions questioning the interrogative techniques used. And it
19 is important that issues raised at trial should be raised openly
20 without containing in themselves allegations according to which
21 the Co-Investigating Judges' investigations have been dishonest
22 or fraudulent.

23 I think that at this stage in the proceedings such allegations
24 are inappropriate, so you are invited to ask questions that do
25 not contain such insinuations. In other words, your questions

96

1 should be open. I think that is a most important point that we
2 wanted to make.

3 [15.47.06]

4 MR. IANUZZI:

5 Thank you for that clarification, Judge Lavergne.

6 I'd just like to add for the record -- and I will speak very
7 slowly -- in my submission, I made a very measured submission and
8 I suggested that the answer from the witness could be an
9 innocuous one. So I do take exception with the fact that I have
10 impugned anyone's integrity ad hominem. I have not done that. I
11 haven't named anyone by name. I haven't said "this investigator
12 is a bad person, the one who took that statement". I haven't said
13 anything of the kind, so I do take exception to that ruling; just
14 for the record, just for the record. But I do note -- I do note
15 what you've said.

16 And may I continue with -- may the witness answer this question
17 or has the objection been ruled on?

18 [15.47.56]

19 MR. PRESIDENT:

20 You may continue putting questions to the witness.

21 BY MR. IANUZZI:

22 Thank you.

23 Q. Mr. Witness, coming back to what I said previously, I have the
24 same question for you. What did you mean, what did you mean, when
25 you said that you felt you were "bombarded" by the OCIJ -- or the

1 investigators? Could you please tell us what you meant by that?
2 And please correct me if that's -- if I'm misquoting you in any
3 way if that's not what you've said.

4 MR. NORNG SOPHANG:

5 A. The situation was that Pon -- regarding Pon and Thé in my
6 statement, I stated that I did not know where they went and they
7 still insisted on asking who disappeared first and it was very
8 difficult for me to respond. That was the situation -- because I
9 said I already did not know, but they still insisted on asking me
10 further questions that who was removed first. That was the
11 situation and I repeat.

12 [15.49.34]

13 Q. Thank you, Mr. Witness. So, just so I have that clear, after
14 you gave what you considered to be a clear answer to the OCIJ
15 investigators not calling for any further questioning on that
16 point, they continued to question you and ask you questions that
17 suggested that you may or should know those thing; have I got you
18 right?

19 MR. PRESIDENT:

20 Witness, please wait.

21 Judge Lavergne, you may proceed.

22 JUDGE LAVERGNE:

23 Mr. Ianuzzi, either we have a communication problem or you do not
24 -- you are not making an effort to understand us.
25 What we are telling you is that you should ask open questions,

98

1 and in one of your questions you suggested that the questions
2 were unfair. That point is quite simple to understand. You are
3 suggesting to the witness that the manner in which he was
4 questioned was tantamount to dishonesty.

5 [15.50.50]

6 MR. IANUZZI:

7 Your Honour, the witness -- it was the witness's answer that
8 suggested that and I was following up on the answer. That's all I
9 was doing. That's what the witness said.

10 JUDGE LAVERGNE:

11 Mr. Ianuzzi, I do not think we are here to comment on the
12 Chamber's ruling on objections. You are here to follow the
13 instructions meted out to you by the Chamber.

14 MR. IANUZZI:

15 Well, in that case, just so I clearly understand the instruction
16 that was just meted out, I am not permitted to ask - or, excuse
17 me, I must ask an open question even when the answer from the
18 witness is highly suggestive; is that the ruling, just so I have
19 it clear? I don't want to offend you any more.

20 [15.52.00]

21 MR. PRESIDENT:

22 Judge Lavergne, you may proceed.

23 JUDGE LAVERGNE:

24 I think we should not over-interpret the witness's responses. We
25 should show proof of fair conduct before the Chamber.

1 BY MR. IANUZZI:

2 Thank you, Judge Lavergne. I'll move on to my next question on
3 the same topic.

4 Q. Mr. Witness, one of the first things you did, one of the first
5 things you did, in this courtroom when you appeared on Wednesday
6 of last week I believe it was, you confirmed in response to a
7 question from the President, the content in its entirety of both
8 of your statements to the OCIJ investigators. Do you recall that?

9 MR. NORNG SOPHANG:

10 A. I do not understand your question. Can you rephrase it?

11 Q. Certainly. As I recall, one of the first -- well, let me take
12 it step by step.

13 [15.53.31]

14 Do you remember your first day of testimony before the Chamber?

15 That was last Wednesday -- that is, Wednesday of last week. I'm
16 sorry, Mr. Witness, I can rephrase it again if you're still
17 unclear.

18 A. I am unsure because there were a lot of questions when I was
19 first appeared on Wednesday. What question are you referring to?
20 I responded to various questions, but I cannot recollect all of
21 those questions and responses.

22 Q. Indeed, Mr. Witness, you are correct, and it's late in the day
23 and I apologize for my lack of clarity.

24 The very first individual who put questions to you was the
25 President of the Chamber. Do you remember that?

100

1 [15.55.02]

2 A. Yes, I remember that.

3 Q. Thank you. And do you remember -- as I recall and tell me if I
4 am wrong -- one of the questions he asked you was whether or not
5 you had reviewed your -- the two statements you gave to the OCIJ
6 investigators pursuant to the normal policy in this Court whereby
7 witnesses are given their statements to review in advance of
8 testimony?

9 A. Yes, the President asked me that question, and of course I
10 reviewed the statements. And the statements were consistent.

11 Q. Thank you. And then I believe, as a follow-up question, he
12 asked you if you confirmed the contents of those statements in
13 their entirety; that you stood by what you had said completely in
14 those statements. And, as I recall, you said yes, but please
15 correct if I'm wrong?

16 A. Yes, that is correct.

17 [15.56.33]

18 Q. Thank you, Mr. Witness.

19 Now, again, at several points over the course of your testimony
20 over these last few days, you have -- and I'm not going to
21 characterize this in any way -- so let me just say at times
22 you've said that certain portions of your statements should not
23 be relied upon, should not be used in evidence. And I believe you
24 very clearly indicated that those portions related to places
25 where you felt you had made assumptions; is that correct?

101

1 A. Yes, I repeatedly state that please review my interview with
2 the OCIJ investigators. As for the text where I made a
3 presumption, please don't use that portion as a true and reliable
4 statement. Please disregard that portion.

5 Q. Thank you, Mr. Witness. And correct me if I'm wrong, is that
6 because the President of the Chamber explained to you what it
7 meant to make assumptions, what it meant to use qualified
8 language like "perhaps", like "maybe"; is that why you made those
9 later statements -- because the Chamber explained what it meant
10 to make an assumption?

11 [15.58.22]

12 A. Yes, the President reminded me -- I think, from my
13 recollection -- immediately after the morning session started. He
14 reminded me to give my best effort in providing a truthful answer
15 and without providing any answer based on my presumption.

16 Q. Thank you, Mr. Witness, and maybe this could be my last
17 question for the day.

18 When you gave those statements to the OCIJ, did anyone who was
19 there taking the statement explain to you or tell you not to make
20 assumptions?

21 A. There was no clear explanation as the President did. However,
22 I was told to speak about the truth, or what I knew clearly, or
23 the experience that -- that I went through. I was reminded of all
24 these points before the interview started.

25 MR. IANUZZI:

102

1 Thank you, Mr. Witness.

2 Your Honour, I don't mean to be presumptuous myself, but is this
3 a good time to stop? I'm not finished. I would like to continue
4 tomorrow.

5 [16.00.11]

6 MR. PRESIDENT:

7 Thank you, Counsel.

8 We shall adjourn now and we can resume tomorrow.

9 Counsel, you are also reminded to read and review Internal Rule
10 36 - rather, 76.7, which clearly states according to the civil
11 law systems besides the subject of the appeal, the amendment
12 shall be made pursuant to the rule of questioning and no such
13 procedural defect can be raised before the Trial Chamber or
14 during the Court proceeding. This is just a reminder for you, and
15 we may revisit the matter again tomorrow.

16 Thank you, Counsels. Thank you, Witness.

17 [16.01.20]

18 Today's hearing will be adjourned now and it will resume tomorrow
19 -- that is, Thursday, 6 September 2012, starting from 9 a.m. We
20 will continue to hear the testimony of this same witness who will
21 be questioned by Nuon Chea's defence and then by Ieng Sary's
22 defence. This information is for the general public and for the
23 parties.

24 Mr. Witness, the hearing of your testimony has not yet concluded
25 and you are invited to once again come to the courtroom to

103

1 testify tomorrow morning, and it is likely that your testimony
2 will conclude tomorrow.

3 Court Officer, in coordination with WESU unit, please assist the
4 witness for his return to his residence and have him returned to
5 the courtroom tomorrow morning, at 9 a.m.

6 Security guards, you are instructed to take the three Accused
7 back to the ECCC detention facility and have them returned to the
8 courtroom tomorrow morning, prior to 9 a.m.

9 The Court is now adjourned.

10 (Court adjourns at 1602H)

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