



***Hearings Continue Focus on Telegram Communication***

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After the emotionally charged nature of Thursday's proceedings created by both witnesses and Counsel alike, the hearings at the Extraordinary Chambers in the Courts of Cambodia (ECCC) on Friday, December 14, 2012, returned to a more leveled examination of communication and authority structures under the Khmer Rouge regime.

The morning session saw the resumption of the questioning of Mr. Phan Van, with defense lawyers probing the witness about discrepancies in his age and the nature of his working relationship with his father, the secretary of the sector in which Mr. Van worked during the Democratic Kampuchea (DK) period.

Some of the morning and all of the afternoon sessions were dedicated to the questioning of a new witness, Suon Kanil, a Morse code operator who worked in a telegram communication hub in the Central zone. Mr. Kanil gave a somewhat circuitous testimony about the nature of communication structure and authority structure in the zone.

The hearing was attended by around 200 villagers from Kompong Speu province. Before proceedings began, Greffier Duch Phary stated that all parties were present in the courtroom except Ieng Sary, who is in his holding cell due to health concerns. He also informed the court that Mr. Ang Udom, Counsel for Ieng Sary, was absent due to personal commitments.

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

Greffier Phary explained the course of this morning's proceedings and announced that the Chamber would continue to hear the testimony of witness TCW 695. He went on to announce that the witness has already taken an oath before the court, and has already confirmed he has no biological relation with any of the civil parties.

The President thanked Greffier Phary and handed over proceedings to National Counsel for Khieu Samphan, Mr. Kong Sam Onn, to continue his questioning of the witness Mr. Phan Van *alias* Khamphan.<sup>2</sup>

***Continuation of Questioning on K17 and B20***

Mr. Sam Onn thanked the President and indicated his intention to continue his questioning of the witness about K17 and his study at B20. Counsel ensured the witness that he only had a few questions remaining on this topic.

The defense counsel sought clarification from the witness on his age due to discrepancies on the records by the Office of the Co-Investigating Judges ("OCIJ"). The witness replied that he did not know the exact date of his birth, but he had already stated it in the interview. When asked whether he believed that he was older than the age provided for in the interview transcript, the witness responded that he was "more or less that age, maybe one year's difference."

Turning his attention to Mr. Van's study at B20, Mr. Sam Onn asked the witness to elaborate on his previous answer that he learned to type. To this, the witness responded not that he learned to type but rather that he "only really learned to decode telegrams."

After confirming with the witness that this was indeed the case, Mr. Sam Onn asked Mr. Van what he learned regarding the telegrams. The witness responded that he learned the "10 digit chart." When asked to explain this, the witness responded, "In the study session we would be asked to understand the square columns and there would be numbers from 0-9 and then we were instructed to decode this and translate the numbers into words." When asked if he studied anything other than the decoding techniques, the witness replied that he did not. Mr. Sam Onn asked about the length of the training, to which the witness replied that the training was one month approximately. When asked whether after that month he was capable of decoding telegrams, or whether his instructor assessed his performance in anyway, Mr. Van said there was no such assessment.

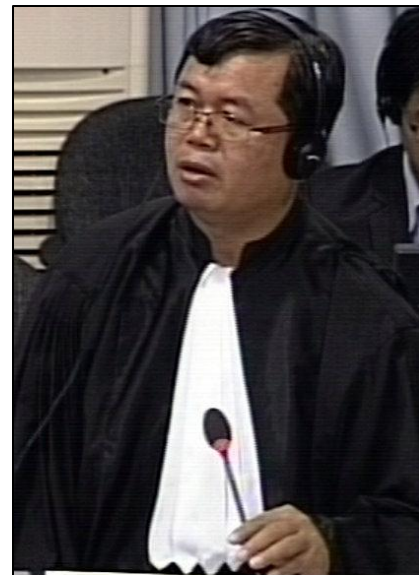
Mr. Sam Onn turned his line of questioning to K17, asking whether the witness stayed there from 1974-1977 and if so what he did there, to which the witness responded that he was there helping his father decode telegrams. When asked whether he worked under the supervision of others, the witness replied he worked under the chairman of the office. Enquiring into the office structure, the counsel asked whether there was another chief present besides the witness' father, to which Mr. Van replied that there was. The witness was asked how many people the group of his telegram coding section consisted of. The witness described how he, "was alone at the beginning but then later he was joined by his sister and a few other people." He went on to confirm that

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<sup>2</sup> Mr. Van began testifying on December 11, 2012. Cambodia Tribunal Monitor's daily blog post of his first day of testimony is available at <http://www.cambodiatribunal.org/blog/2012/12/khmer-rouge-messenger-and-doctor-each-provide-insight-democratic-kampuchea-period>.

K17 had no other subsections and that there was no section for receiving radio communication, which he and a few other members of the group would deal with.

Mr. Sam Onn turned his attention to clarification concerning the witness' interview before the OCIJ,<sup>3</sup> indicating in the statement that the witness, "from 1975 to late 1977, went to Phnom Kraol, the K17 office where the provincial committee worked." Clarifying the term "provincial committee" the witness told the court that sometimes sector committee was used interchangeably, and "there was no such official language used, it was just about the routine which determined rather than titles."



Further on in Mr. Van's statement, the Counsel noted, the witness had said that with regard to instructions to do with arrest, "in K17 such instructions were never seen." The witness stood by his statement, saying, "Because there was no such order to arrest people, they just disappeared." Counsel made the point with his next question that Mr. Van was simply a telegram coder and likely would not be privileged to such instructions. Mr. Van conceded this, responding, "At that time some telegrams were strictly confidential, and I did not know about this; some people could have been called to attend study sessions at the upper level which is beyond my knowledge."

### ***Telegrams to and from Khieu Samphan alias Hem***

Mr. Sam Onn ceded the floor to his colleague International Counsel for Khieu Samphan Mr. Arthur Vercken. Mr. Vercken began by referring to the written record of witness's OCIJ interview,<sup>4</sup> in which he quoted the questions by the investigators relating to where the witness was doing his work and to whom he sent the telegrams. According to the answers on his statement, the witness replied, "Most of the time I sent telegrams to office 870. I had to use plain language and I sent them to Khieu Samphan and when he sent back his instructions he used the name Hem, when he handed out his sector assignments to K17, to do with economic matters." Mr. Vercken finished the lengthy run up to his first question by telling the witness that according to his statement, he talked about security work and sent some messages relating to this. The defense counsel then very broadly asked the witness to detail the breakdown of his work during the entire time he worked in the telegram section. The witness appeared confused by the question as Mr. Vercken had already detailed most of the work he undertook but then responded that he stood by his statement to the OCIJ. Probing for further detail Mr. Vercken asked whether Hem would send or receive telegrams about security in the witness's region, to which the witness replied, "No, Khieu Samphan had nothing to do with security, I did not see his name appear in security matters."

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<sup>3</sup> The document number of the interview transcript is E3/58. Counsel failed to give the relevant ERN numbers but stressed it was on Page 3 of the document.

<sup>4</sup> This interview has the document number E3/58, and the relevant ERNs are 00239934 (in Khmer), 00250088 (in English), and 00283915 (in French).

Mr. Vercken probed the witness about the confidentiality of telegrams and what was meant by non-confidential, to which Mr. Van replied, “At the time they did not encode the secret numbers. By literal numbers I mean the numbers everyone understands at school. Letters were the characters ordinary people would understand.”

Mr. Vercken asked the witness to confirm whether he saw such uncoded letters from Hem, and the witness responded in the affirmative.

The defense counsel invited the witness to enlighten the court on the wording of his interview, specifically that in some telegrams that were shown, they started with the salutation “Office 870, beloved.” Mr. Vercken pointed out that, at least colloquially in French, it would seem like it would be destined for an individual, not an office. He inquired as to the reason for the use of the name “beloved.” The witness indicated that he did not understand the specific meaning the term conveyed but stated that it was common that in the salutation they would close the letter with this. Due to his poor education, Mr. Van asserted, he did not understand why this was so.

Mr. Vercken stated that, by way of reference to the statements of other witnesses to which counsel had asked about the same term and its significance, the witness usually replied that such documents were destined to Pol Pot. He invited the witness to offer his agreement with the previous witness, to which Mr. Van replied, “I am not knowledgeable of this; I am not sure whether 817 refers to Pol Pot or a committee”.

***Clarification Sought on Exact Timeline of Witness’s Departure from Telegram Job***

National Counsel for Khieu Samphan Kong Sam Onn retook the floor and sought clarification on when the witness left his job as a telegram decoder. He began by asking the witness to acknowledge that he worked with his father up until 1977 as a telegram decoder. The witness responded, “I was a telegram decoder up until one year after the war, sometime in 1975 – 1976. I do not recall the exact year; I need to conduct further research to recall the exact date.”

Mr. Sam Onn reminded the witness of his testimony about his sister taking over the job from him, and asked him a series of questions relating to the take-over period. Asked whether he still worked as a decoder when she replaced him, Mr. Van replied, “No, I no longer worked, my sister took my place.” The witness confirmed the Counsel’s assertion that his sister arrived at precisely the moment he left.

Mr. Sam Onn focused his questions around mention of a telegram in a previous interview with the witness by the OCIJ. Counsel directed the witness’s attention to the portion of his statement where he talked about a telegram from Comrade Pon to his father, making reference to his sister Bophan.<sup>5</sup> In the telegram Mr. Van’s father asks Pon for help with training, leading to the conclusion that on the date of the telegram his sister had not yet been trained on how to decode confidential telegrams.

At this point International Co-Prosecutor Mr. Vincent de Wilde interjected, saying that the statement does not mean she received no prior training before the telegram and leads the witness

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<sup>5</sup> This is an alias for Phan Sovannhan.

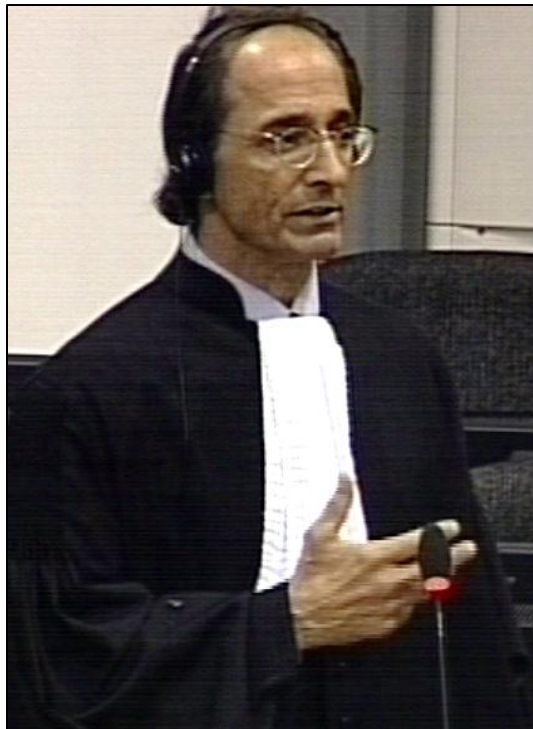
to conclude there was none. Mr. Sam Onn objected to the objection, stating that the witness could answer the perfectly open question. President Nil Nonn decisively ruled that the counsel's questions should be more specific as to what the witness knows and less suggestive. Mr. Sam Onn thanked the President and rephrased his questions relating to the telegram, asking him to explain the telegram that refers to the training of his sister. The witness replied that he did not know whether she undertook further training, but she had mastered the skill before she came to take his place. Counsel ended his questioning and the President handed over to International Counsel for Ieng Sary Michael Karnavas to put questions to the witness.

### ***Age of the Witness Questioned***

Mr. Karnavas began his line of questioning by focusing on the age of the witness. Referring to Mr. Van's earlier testimony in which he told the courtroom that he was born in 1960, "plus or minus one year," Mr. Karnavas asked whether he made this qualification to the OCIJ during his interview, to which Mr. Van replied, "A discussion took place about this with the me, and I asked my siblings but they did not know." When prompted about whether he asked his siblings during the interview the witness responded that he asked before. Mr. Karnavas asked the witness to clarify whether he told the OCIJ that he was not clear about his age, to which the witness responded that he did make this clear and they took the date from his identity card.

Mr. Karnavas inquired as to the witness' age when he became a driver, to which the witness responded, "I do not know exactly, but I think it could have been 17 or 18 years old." Mr. Karnavas made the point that he may have been 15 or 16 years old since he did not know when he was born and then emphasized his point by asking whether the witness knew for certain that he was 17 or 18 when he was a driver or could he have been younger, to which the witness replied that he could not have been younger.

### ***Continued Questions on Witness's Father***



Mr. Karnavas eventually turned his attention to Mr. Van's level of involvement and knowledge of the meetings he was driving to. He asked the witness whether he also attended the meetings when he was a driver, to which the witness replied, "No, as a driver I simply took the people to the meeting and then waited outside, it was none of my business." Mr. Karnavas asked how close he would drive to the meeting room, to which the witness responded as close as the outside gate of the compound. When the meeting was occurring, the witness told the court, he was with the car at all times, so he was located outside of the compound. Mr. Karnavas probed the witness as to whether he found out who attended the meetings or what the meetings were about while he waited by the car, to which the witness replied, "No."

Mr. Karnavas pursued a line of enquiry designed to emphasize the importance of the witness's father to

the regime. Confirming that Mr. Van's father was the secretary of the sector, the defense counsel went on to stress the point that the witness should know how important his father was, in spite of any limitations in knowledge about his father's activities. He asked the witness, "Was there someone above your father's level in the sector?" to which Mr. Van replied in the negative. Mr. Karnavas continued, "From this we can conclude that your father was the most important person?" to which the witness replied that he was.

Narrowing the focus of his questioning to the witness' knowledge of his father's activities and particularly the conduct of meetings held in private, Mr. Karnavas asked whether his father ever explained his role or responsibility, to which the witness replied that he did not. Asked whether his father ever held secret meetings, the witness said no but qualified this response by saying that he did hold meetings in which he was not present. Mr. Karnavas asked whether this was because the meetings were supposed to be confidential, to which the witness replied,

I was just not allowed, I was not qualified enough, I did not know what happened in those meetings because I was not in a position to be informed of this, and I dare not ask. At that time people were asked to mind their own business, this is the policy. No one challenges such policy.

Mr. Karnavas asked the witness whether he ever accompanied his father to Phnom Penh meetings. Mr. Van responded, "I was left outside. My father did not tell me what the meetings were about or keep me informed of the situation. He did not tell me anything."

### ***Witness's Memory Challenged***

Mr. Karnavas observed that the witness seemed to have detailed knowledge in the OCIJ interviews but does not possess the same memory in the courtroom only a few years later. The witness responded that in the courtroom questions bombarded him, ill-affording him the time to speak, but during the interviews the environment was more conducive to conversation. Mr. Karnavas, failing to conceal a wry smile, stated that he hoped he hadn't bombarded the witness with too many questions today.

A discussion between Mr. Karnavas and the witness about how an interviewer corrected Mr. Van during his OCIJ interview then ensued, with the witness apparently surprising Mr. Karnavas by stating, "The conversation had to go on the tape simultaneously and then we would be talking and then we would put on time. And then if something went wrong, we would correct and record it." When asked as to how the interviews were conducted in respect to the corrections, and after an unsuccessful objection by Mr. de Wilde, the witness stated:

It was not a kind of error or mistake during that time. For example, when I would say something that was not about the truth, I would be given the opportunity to play back the tape and make sure the version of the event is corrected so that we can get the truth.

Mr. Karnavas elicited a surprise response from the witness when he asked whether in putting those questions to him whether they were not also suggesting to him the answers that he should give in order to correct his memory, to which the witness replied, "Yes"

Civil Party Lawyer Pich Ang took the floor to raise “doubts” regarding the line of questioning, to which the Counsel for Ieng Sary replied, “If [the Counsel] has doubts perhaps he could seek leave to ask for further questions”.

Counsel Karnavas finished his questions by asking the witness, “When they were correcting you, did they show you any other documents during the interview?” To which the witness responded “No.”

Counsel Karnavas cordially thanked the witness for his time and wished him good luck and safe travels.

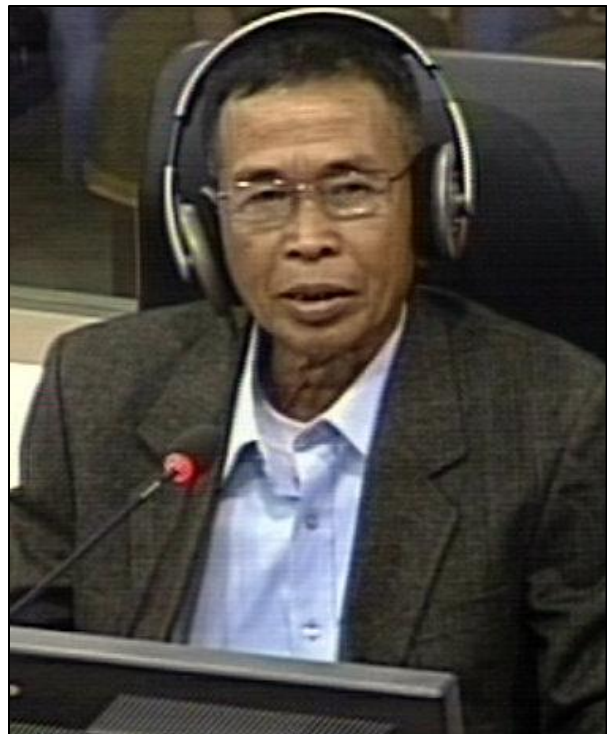
The judges huddled together in deliberation for a few minutes, after which Nil Nonn handed the floor to International Counsel for Nuon Chea Andrew Ianuzzi. Mr. Ianuzzi politely thanked the witness for the answers he provided in yesterday’s hearing, as he did not have “time before he left the courtroom” to do so during Thursday’s proceedings.

President Nil Nonn brought the testimony of Mr. Van to a conclusion and excused the witness, leaving him with the parting statement, “Your testimony will be helpful in finding the truth.” The court then adjourned for the morning break.

#### ***Questioning of Witness Suon Kanil***

Upon resumption of the session, President Nil Nonn instructed the court officer to call witness TCW 695, Suon Kanil, into the courtroom. The President asked the witness’ name, age, and place of birth, to which the witness gave the answers: Suon Kanil; 59 years old; and Chhouk commune Pralay village Stong district, Kampong Thom, respectively. When asked whether he still lived at his birthplace, the witness replied that he did. His father’s name is Suon Sin, deceased, and his mother’s name is Chan Kim Huot, deceased. His wife’s name is Chiev Ny, who also goes by the alias of Meas Ny, and they have six children together. The president went on to inform the witness of his rights relating to self-incrimination, including his right to refuse to answer any questions. The president stressed the importance of the witness telling of his own experiences and observations and telling the whole truth and nothing but the truth.

The president continued to ask if the witness had given interviews to the Office of the Co-Investigating Judges, to which the witness replied that he had, explaining that on several occasions, representatives of the OCIJ interviewed him at his home. The president asked the witness whether he had read this



record of interview and whether his recollection of these records represent a precise version of his account, to which the witness responded that the accounts were consistent.

National Assistant Co-Prosecutor Song Chhorvon took the floor to put questions to the witness for the prosecution. She firstly sought leave to produce the witness' interviews by the investigator upon which she would be basing her questioning. After Co-Prosecutor was granted permission the Court Officer put before the witness three transcripts of interviews he had previously given to members of the OCIJ.<sup>6</sup>

Ms. Chhorvon opened her questioning with an inquiry into the period when the witness first joined the revolution. The witness, upon prompting, told the courtroom that he first joined the revolution in November 1971, in the Kla Khmom commune, Chi Kreng district, Siem Reap province. The witness described how, just 18 years old, he was selected to attend the training session of telegram encoding six months after he joined the revolution and he was assigned to sector 35 of the former northern zone. At this point the questioning was interrupted several times by issues with the witness speaking before his microphone was turned on, with President Nonn repeatedly requesting that the witness wait until the red light came on before giving an answer.

The witness then stated that he was sent to do work relating to propaganda for the revolution and after prying open this line of inquiry, the National Co-Prosecutor managed to elicit the following information from the witness:

After joining the revolution I was asked to do propaganda work in Krabei Riel. I focused mainly on the work dealing with national liberation, the revolution to change the old regime into a new one. Propaganda was carried out through meetings, which were convened according to each respective level. I received instructions from the commune level because I lived in the village. During the meetings every meeting was successful. ... Before the meetings people had not understood [the Revolution], but after they were convinced about the course of the Revolution and eventually they believed and joined us.

#### ***Witness Describes Telegram Operation Training Process***

Turning her attention to telegram training and particularly the location of such training, Ms. Chhorvon asked the witness where the training took place. Mr. Kanil replied, "I came from Siem Reap and went to a jungle near Kratie, T8 near Toul Sambuor."

Ms. Chhorvon probed the witness further about whether he was familiar with the office M870, located near K8, and the witness responded that he had heard of it through his instructor during the training sessions. Mr. Kanil went on to describe the nature of his training and that he was taught Morse code by a man known by the name Moeun for three and a half months and then studied for six months under a man named Yoeun. He told the court that good trainees would then become trainers for future sections. Instructor Yoeun had informed the witness about the existence of Office 870, yet the witness was unsure of the date he was first told about it.

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<sup>6</sup> The interviews are represented by document numbers: E3/344, E3/411, and E3/74.



Ms. Chhorvon asked whether the witness was told the purpose of the telegrams, to which Mr. Kanil replied, “During the training we were. For military, air, land and water [purposes], these [were the] channels of communication. Telegrams were used to communicate from the commanders of the battlefield to the zone sectors secretaries.” When asked about the introduction of the secret codings and the timeline specific to his zone, the witness responded that secret codings were introduced as soon as the Morse code was set up, and the device was sent to his area in late 1972/ early1973.

### ***Propaganda at the Printing House in Kompong Cham***

The prosecutor refocused her line of questioning onto the period when the witness was re-assigned from the telegram training to the printing house. The witness described to the Court that in late 1972, while waiting for the telegram decoding machine to arrive, he was asked to work on a farm, before being reallocated the task of helping with the printing house. When asked where it was located and how big it was, the witness gave the information that it was in “Kampong Cham province” and was “a very small building, containing two to three people who worked in a small shack.” When asked who was in charge, the witness replied “Chet” along with another person whose name the witness could not remember.

The questioning then focused around the product output of the printing house and in particular the publication *Reasmei Padevat*.<sup>7</sup> When asked about the nature of this publication, the witness told the court it was a magazine. The Co-Prosecutor asked the witness who had the authority to make the decision about what was being printed, to which he stated, “The decisions were made by the zone secretary.” Ms. Chhorvon continued to ask about the distribution of the documents, and particularly who made the decisions about dissemination. Mr. Kanil told the court that the documents would be distributed to the different sectors and that any decisions relating to this would be down to the secretary of the zone. When prompted about the name of the Secretary of his zone, the witness stated, “Normally people refer to him as brother Thuch.” When asked whether he had the opportunity to read the content of the magazines, the witness said he saw the magazines but was not allowed to read them. The *Revolutionary Flag* magazines were sent from the upper authority, he explained, but the witness did not know exactly who they were “because it was a secretive office.”



### ***Battle in Kompong Thom Province in 1973***

After establishing that the witness was in Kompong Thom province during 1973, the prosecutor asked him whether he recalled an ongoing battle during that period. Mr. Kanil replied in the affirmative and commented on the ferocity of the battle. The witness gave evidence on the

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<sup>7</sup> Translated into English as the Revolutionary Ray or Light.

location and duration of the battle, and when asked where the battle started, he remembered that back in 1973 the battle erupted around Kompong Thom province, and in its provincial towns.

### ***Attention Turns to Ke Pauk***

Ms. Chhorvon, seemingly frustrated with her previous line of questioning, drew the witness's attention to his working relationship with Ke Pauk and the people who worked closely with him. Counsel firstly asked how many people worked for Ke Pauk in 1973, to which the witness provided, "Those [who] worked closely with Ke Pauk are those in telegram section, security guards, and commanders working in battalions." The counsel prompted the witness for names, and despite his insistence on his poor memory, he could recall that there was a man by the name of Chet, who was a close aid of Ke Pauk, but could not remember any further names.

The prosecutor turned her questions to Ke Pauk's position within the overall reporting structure. The witness described that in terms of the reporting structure Ke Pauk was in charge of the general staff of the zone, and therefore reported to the zone secretary. Asked to enlighten the court as to Ke Pauk's superior, the witness replied that Ke Pauk had to report to the secretary of the zone, who relayed messages to the upper authority in the hierarchical structure. When asked how Ke Pauk reported to the upper authority, the witness said he did this through the use of telegrams, and if any important matters arose he would communicate with his superiors, increasingly so during times of warfare.

Warned by President Nonn about the time spent dwelling on 1973, the prosecutor rounded off her questions on this period, by asking whether the witness was aware of the evacuation of people from Kratie and Uddong in 1974 to which the witness replied that he was not.

### ***Questioning on the Reorganization of the Old North Zone and Composition of Central Zone***

Moving onto the period of 1975, Ms. Chhorvon asked the witness to confirm whether the zone under the command of Ke Pauk was transformed into the central zone. Mr. Kanil replied in the affirmative and told the court about the break-up of the northern zone to make the new central zone. Asked about his first impression upon entering Kompong Cham town during this reorganization, the witness described how it was not as bad as it would have been immediately after the war, because "the situation had already been organized." By this the witness meant dead bodies from the aftermath of the battle had already been cleared, so he did not see any dead bodies on the streets. Ms. Chhorvon asked the witness whether he saw the Muslim Cham community, to which Mr. Kanil said, "I knew about the Cham community but they had not been evacuated at the time. I saw them when I went out to fish at night."

Counsel's questions then delved into the structure of the old north zone, and the witness revealed Ke Pauk's deputy was a man called Sy, who was placed in charge of Sector 305 in Siem Reap. The witness told of the reorganization of the structure following 17 April 1975 – but could not recall the exact date stating, "It could have been any time after that date."

Ms. Chhorvon turned to the composition of the sector committee of the central zone, using the transcript of his interview with the OCIJ to guide the witness,<sup>8</sup> taking particular interest in a man

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<sup>8</sup> This interview has the document number E3/344, and the relevant ERNs are 00373496 (in Khmer), 00384428 (in English), and 00426144 (in French).

named Sour. The witness recalled there were two men named Sour, one who belonged to the district committee and one who belonged to the member's committee. According to the witness' interview with the OCIJ he had reported that Sour "had disappeared in 1977 and he was a political resistant."

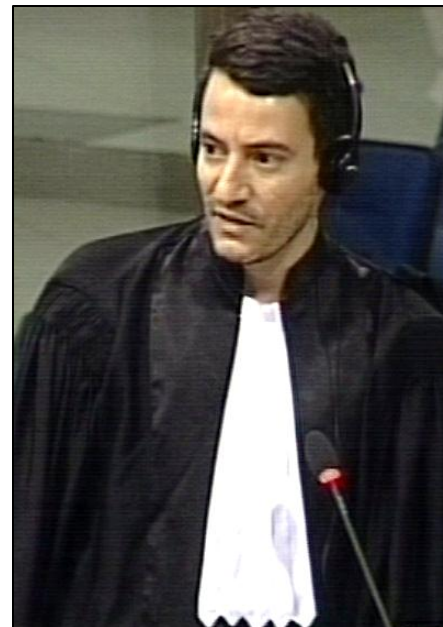
Continuing to follow his statement to the OCIJ, the prosecutor asked the witness about the secretaries of sector 41, 42, and 43. Mr. Kanil informed the court that a man called Sreng was the secretary of these sectors but did not hold the position throughout the period and was replaced by Ta An. The witness continued, "At this point Sreng mysteriously disappeared, and I was informed about this from the compendium of telegrams, but dare not ask any further because I was not allowed." When asked about the small compendium of telegrams, the witness described the list of contacts, from zones to sectors, and how at the beginning Sreng's name appeared in the telegrams but then An's name replaced it.

At this point, the president interjected to recess the hearings for lunch. Mr. Ianuzzi made an application for his client to follow the rest of the day's proceedings from his holding cell, due to a headache, backache, and inability to concentrate. The request was granted by President Nonn who allowed him to observe via video-link and reminded the court that he has expressly waived his right to be present in the courtroom.

### ***"Purging the Contempt"***

International Co-Prosecutor Raynor used this juncture to raise the issue of Mr. Ianuzzi being ejected from yesterday's proceedings for contempt of court. He informed the court that in common law jurisdictions, when a counsel or any other member of the court is found in contempt, the person in contempt is usually given the opportunity to purge the contempt by apologizing to the court. He then invited Mr. Ianuzzi to "purge the contempt" by offering this apology. Mr. Ianuzzi declined the invitation, responding, "There has been enough purging in this country; I will not add to it."

After huddled deliberation among the judges, Judge Sylvia Cartwright informed the parties that the Trial Chamber recalls that the notion the Co-Prosecutor raised is not included in the Court's Internal Rules. Nonetheless, she continued, this was an opportunity for Mr. Ianuzzi to apologize, and he has not done so. Furthermore, the tone and nature of his response in referring to "purges" in a country that has gone through so much suffering, is unacceptable, she concluded, and as a result, this incident will be included in the report that the Trial Chamber will make to his Bar Council on his conduct.



### ***The Importance of Telegrams to the Regime***

When proceedings resumed after lunch, Ms. Chhorvon continued her questioning of witness Suon Kanil by asking about the nature of the logbook and whether there were any names in the book that Mr. Kanil could remember. When Sreng disappeared, the witness recounted, he was

told that Sreng had already been replaced and to keep silent about this. He added, “Normally when the person who the telegram was intended for disappeared, so did the messenger.” Counsel went on to probe the witness about the form of the square tables in the log book, and he replied that they would be used as a tool to help translate the digits into letters. He said, “In the small book there was a table which detailed contact [for the recipient of the telegram], for example 34 would be translated as Sreng.

Ms. Chhorvon revisited the subject of the importance of the telegrams to the regime at that time. When asked why they were important, the witness responded, “Telegrams are the blood vessels in a human body. If there was no telegram there would be no blood flowing to the rest of the body, and the body would malfunction. If there was a problem in the connection of the telegram, it would translate to a big problem for the regime.”

Asked if there was any other means of communication other than telegrams, the witness replied that the normal method of communication was via telegrams, but there were other means of communications, such as written letters. Mr. Kanil stressed that telegrams and written letters were equally valuable and that at each office there would be messengers to deliver the letters.

### ***Questioning on Disappearances***

Ms. Chhorvon, referring to the witness’ interview with the OCIJ,<sup>9</sup> stated that Mr. Kanil referred to the hierarchical order of the regime in the form of center level, followed by zone, then sector, then district and asked him to confirm that his previous statement was true, which he did.

In another one of his statements to the OCIJ,<sup>10</sup> the prosecutor continued, the witness had told investigators that “people that had been arrested were those implicated in other people’s confessions.” Asked whether he stood by this statement, the witness responded yes. When Ms. Chhorvon asked the witness what he meant by disappearing, the witness responded, somewhat evasively, that this meant that he “no longer saw the people.” In another page on the same interview,<sup>11</sup> the witness’ statement that disappearance meant natural causes or death was verified as accurate by Mr. Kanil.

Ms. Chhorvon probed the witness on his knowledge that the people who disappeared may have been sent to Phnom Penh and how he knew about this. The witness replied that he had knowledge because he was shown a list of the names of the people by the investigators. The prosecutor went on to elicit from the witness that the list was relating to prisoners of S-21 prison camp in Phnom Penh. Concerning the disappearance of the people, the witness stated that from his knowledge of disappearance it means that “he/she was arrested.”

### **Objections over Lack of Precision on Temporal Scope of Questions**

Following this line of questioning, Mr. Sam Onn objected to the prosecutor’s use of the word “if” as it invited speculation from the witness. The prosecutor argued that her question was based

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<sup>9</sup> This interview has the document number E3/344, and the relevant ERNs are 00373498 (in Khmer), 00384429 (in English), and (in French) 00426148

<sup>10</sup> This interview has the document number E3/344, and the relevant ERNs are 00373513 (in Khmer), 00390079 (in English), and 00424039 (in French)

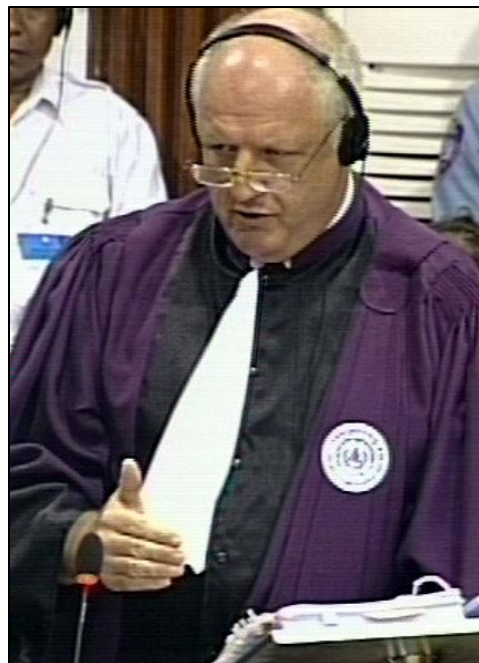
<sup>11</sup> The interpreter was unable to keep up with the translation at this point, so could not relay the ERN numbers.

on confirmation of prior knowledge already established. The president asked for more precision in Ms. Chhorvon’s questions especially in relation to the timeline of her questioning. He urged the prosecutor to limit her questions to the topics of the population movements in the first and second phases and went on to inform Counsel that questions about disappearances are too vague unless it is established when exactly the disappearances happened.

Seemingly undeterred by this objection, Ms. Chhorvon continued to question the witness on his statement<sup>12</sup> and asked him about his assertion that “during the Democratic Kampuchea regime, the Central Committee had the authority to make arrests.” However before the witness had an opportunity to answer the President handed the floor over to Mr. Sam Onn who again objected to the line of questioning on the basis that it fell outside of the scope of Case 002/1.

A discussion about the admissibility of this line of questioning ensued. The judges took some time to deliberate over Mr. Sam Onn’s objection and asked the prosecution to clarify how the questions on disappearances relate to Case 002/1 and also asked them to be vigilant in the distinction between Case 002 in general and Case 002/1 in particular.

Senior Assistant Co-Prosecutor Keith Raynor attempted to explain how this line of questioning fell within the scope of these proceedings. Mr. Raynor explained that communication and authority structure is an overarching principle applicable for this case. By way of illustration of this point, Mr. Raynor pointed out that there has been extensive questioning about the arrests leading to entry into S-21, and reminded the Chamber that Judge Lavergne put numerous telegrams dating from 1977-1978 when questioning a witness previously.



International Counsel for Nuon Chea Mr. Ianuzzi took issue with Mr. Raynor’s submissions, stating that those “overarching areas” referred to by Mr. Raynor relate to a very long period of time that does not form the basis of the current trial and is only relevant if the court “maintains the fiction that there will be several more mini-trials.” He went on to say that International Co-Prosecutor Andrew Cayley himself has gone on record as saying this will never happen.

After deliberation the Trial Chamber granted Ms. Chhorvon permission to continue on her line of questioning.

### ***Arrests of the Team at the Telegram Section***

Ms. Chhorvon narrowed the focus of her last set of questions to the individuals arrested from the telegram centre in which the witness worked. From the same statement to the OCIJ, Counsel put to the witness his own assertion that “those arrested at the north zone were done so as a result of

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<sup>12</sup> The relevant ERNs of which are 00373516 (in Khmer), 00398082(in English), and 0042041 (in French)

decisions coming from the center.” Mr. Kanil confirmed the accuracy of his statement and went on to describe the situation regarding arrests from his experience:

In carrying out the arrests, my team working at the telegram section asked some of our members to assist in the conduct of the search. Ke Pauk told us that arrests could only be pursued when there was a case against someone and this needed an order from the upper authority. When I asked if Ke Pauk could excuse someone from arrest, I was told no. I can give two examples related to this. Firstly they told me my father-in-law had been arrested. I asked who carried out the arrest; no one knew, [and] eventually he was ordered to be released. My brother-in-law was also arrested and I did not know the reason, so I asked the Chief of Security why he has been arrested, and he was then released. So as long as there was an order from the upper authority, the arrest must be carried out.

Ms. Chhorvon asked what happened following the arrest in terms of reporting the arrest to upper authorities and particularly whether Ke Pauk had to report to the upper authority. The witness replied, “Once the arrests were done they were taken on a truck to Phnom Penh.”

### ***Questions on Reeducation***

The prosecutor started a fresh line of questioning on a new topic, asking the witness what he thought was meant by “reeducation.” The witness answered that there was relocation as well as reeducation. Ms. Chhorvon asked the witness to distinguish between the two terms, to which the witness answered, “Reeducation literally means the person was arrested, but they would not call it arrest otherwise people would not comply.” Ms. Chhorvon asked the witness who summoned people for reeducation, at which point Mr. Sam Onn interjected, objecting to the line of questioning about “two semantic topics not relevant to current trial.” The objection was not sustained by President Nonn and the witness was asked to answer the question.

Mr. Kanil eventually answered the question relating to the communication of people being summoned for reeducation, stating that people who were called for reeducation were usually sent telegrams or letters. He went on to say the reason why people acquiesced to the orders relating to reeducation was because “during the Democratic Kampuchea period people were fearful, so once they were summoned, they would immediately surrender not knowing what was going on.” When asked who issued the letters or telegrams of invitation, the witness replied that both letters and telegrams came from the zone committee. When asked if he knew whether the letters were sent directly from the center, the witness replied, “The documents from the center were sent down from the zone and then the zone would decide accordingly.”

The prosecutor continued with her questioning related to the witness’s statement to the OCIJ<sup>13</sup> showing the witness his statement, “The invitations for reeducation were convened by M870. I learned of this through the zone messenger.” The witness stood by his statement. Ms. Chhorvon picked up on the messenger mentioned in the previous answer and asked the witness to whom he was referring. Mr. Kanil responded he was man called Haim. Asked whether there were many people summoned for reeducation in Phnom Penh, the witness replied there were not many.

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<sup>13</sup> This interview has the document number E3/411, and the relevant ERNs are 00373511/12 (in Khmer), 00390078 (in English), and 00424038 (in French).

Ms. Chhorvon then ceded the floor to her colleague Mr. Raynor to continue the questioning of the witness. Before the questioning was allowed to proceed, the matter of time allocation was raised by the president, and Mr. Raynor was asked whether any conversation had taken place between the Co-Prosecutor's Office and the Civil Parties in relation to the timing and division of the questions. Mr. Raynor indicated that they had indeed discussed time restraints and that the Civil Party lawyers did not need much time for questioning. Mr. Raynor added that as their questioning did not commence until 11:10 a.m., he requested time during Monday's hearing to complete the prosecutor's examination. The President acknowledged this, and granted time for questioning by the prosecution during the morning session of Monday's hearing.

### **Questions Clarifying Means of Communications on Arrests**

Returning to the witness's OCIJ statement,<sup>14</sup> the prosecutor showed the witness his statement to the investigators – “If they carried out arrests in the zone it would be known to me.” Mr. Raynor asked whether Mr. Kanil stood by his statement and, if he did, how it was known to him. The witness stood by statement and elaborated, “It was done through letter or messenger. I would know it through the messenger of the zone; whatever was written in the telegrams we would know. The messenger would come to the section and talk to us.”

The witness upon being prompted by Mr. Raynor told the court about his time in Kampong Cham and when he heard about security guards coming to arrest a man called Im:

Im was the last security chief assigned in Kampong Cham province. At the time the center applied the “tolerance principle”; before that there was an inspection of the prisoners in Kampong Cham province. Im went down to meet the security officers from the center. Knowing Im went down to the prison cells to talk with the prisoners, it was alleged that Im was the associate of those prisoners and reported them to Ke Pauk who duly ordered his arrest.



*Ke Pauk (left) in the 1980s, as a military commander in the Cambodian government.  
(Source: Documentation Center of Cambodia)*

<sup>14</sup> This interview has the document number E3/411, and the relevant ERNs are 00373503 (in Khmer), 00384433 (in English), and 00426154 (in French).

Mr. Raynor rounded off the session before the afternoon recess by asking the witness one last question about how often cadre from the center were coming to the security office of the witness's zone, to which the witness responded, "They did not occur very frequently."

### ***Communications between the Different Levels of the Hierarchical Structure***

The final session saw the resumption of Mr. Raynor's questioning of the witness concerning communications within different levels of the hierarchical structure, and he finished his previous line of questioning by asking the witness whether he and the translator Chheam were allowed to work in the same office. The witness confirmed they were allowed to do so, he in his role as Morse code operator, and Chheam as the telegram translator.

Mr. Raynor moved on to explore the matter of incoming telegrams from the center to the witness at zone-level. With leave from the court, he furnished the witness with a transcript of his interview with the investigator<sup>15</sup> in which the witness stated that there was a schedule set by the center level for telegrams to the zone and the schedule was how he knew the telegram came from the center. Mr. Kanil described the limited nature of the communication with the center, saying, "From the center to the zone, we would only be allowed to communicate twice a day."

In order to aid the witness, who seemed fairly disorientated by the current line of questioning, Mr. Raynor allegorically referred to himself as a person at the center attempting to send a telegram to the witness representing the person receiving the telegram at the zone. Breaking his question down in this manner, Mr. Raynor managed to elucidate from the witness that using Morse code, the telegram operatives were able to communicate before the telegram was sent, the telegram then came in coded digits, which were written down by the receiver, and then decoded into letters by Chheam. Mr. Kanil elaborated that every telegram sent to the zone had to be sent directly to Ke Pauk and then after receiving them he would send it to the telegrams decoder.

Reminding the witness of his earlier comments on the schedule of timings for telegrams between the central level and zone level, Mr. Raynor asked whether the same was true for zone level to sector level. Mr. Kanil stressed the importance of the timing of telegrams due to the limited amount of equipment in the communications hub. A telegram overlapping was avoided as much as possible, and communication between sections would be scheduled accordingly.

Mr. Raynor, by way of illustration of the communication structure between center and zone level, reintroduced the witness' interview before the Co-Investigating Judges<sup>16</sup> and refreshed the witness's memory of his assertion that "if the center wanted to invite the sector secretaries to attend a meeting at the zone this would be done by telegram." The witness confirmed this point stating, "This is the order of the flow."

Turning to communication from zone level to center level, Mr. Raynor told the court he was going to explore telegrams sent from sector level to the witness at the zone that needed to be

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<sup>15</sup> This interview has the document number E3/44, and the relevant ERNs are 00373498 (in Khmer), 00384429 (in English), and 00426148 (in French).

<sup>16</sup> This interview has the document number E3/411, and the relevant ERNs are 00373510 (in Khmer), 00390077 (in English), and (in French) 00424036.



forwarded to the center. Referring again to Mr. Kanil's OCIJ interview,<sup>17</sup> Mr. Raynor asked whether every telegram related to the sectors that was sent to the central zone went through the witness. Mr. Kanil confirmed this, adding that the telegrams coming from sectors were not regular, but in 1978 the number of telegrams increased.

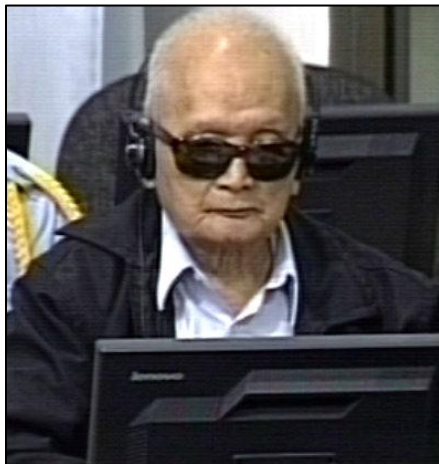
The witness was then asked about contact between zone and sector telegram operators before telegrams were sent. Mr. Kanil told the court that it was usual practice for telegram operators to talk before telegrams were sent. In an unprompted elaboration, the witness described how Ke Pauk needed to be informed of every incoming and outgoing telegram, which was then duly logged; the logbook recorded every telegram that passed through the center.

Mr. Raynor for clarity's sake asked the witness to confirm that sectors 41, 42 and 43 in the central zone each had their own telegram operator, to which the witness gave an unqualified affirmative response.

Mr. Raynor turned his focus from the general to more specific examples of telegrams, and he produced a succession of telegrams which were screened on a monitor inside the courtroom.

The prosecutor firstly asked for the Court's leave to produce a telegram numbered 31, dated 29 March 1978, and received on the same day.<sup>18</sup> The telegram was addressed to "Dear missed committee 870" and copied to "Om Noun." The document was put before the witness and projected onto a screen inside the courtroom.

Mr. Raynor asked what the number on the telegram signified, to which the witness responded, "This telegram is genuine, because of the text, the numbers on the telegram [are] very familiar. In the telegram process ... 295 represents the number of texts." Mr. Raynor noted that the telegram was addressed to Angkar and asked for clarification about who received this telegram. The witness responded in a somewhat unclear manner, "It was reported to Angkar, so it is up to the decoder who had to arrange the text and add some words to make sure they look readable [and then they could understand who it was for]. The term Angkar here is referring to the general group rather than the individual."



Mr. Kanil was asked who Om Nuon was and he replied "Nuon Chea." When the Mr. Raynor received this response, he enquired why Nuon Chea would need to know about the subject matter. In response the witness stated, "I did not draft this communication, but we had to copy it to Angkar Nuon, and that was the order." When probed about the order further, the witness replied it was a decision by the zone, he did not know who by.

<sup>17</sup> This interview has the document number E3/344, and the relevant ERNs are 00373498 (in Khmer), 00384429 (in English), and (in French) 00426148.

<sup>18</sup> This telegram has the document number E3/519

Mr. Raynor with the court's leave handed the witness another telegram<sup>19</sup> addressed to "a respected committee" from Comrade Pauk, which was also projected on a screen in the courtroom. The substance of the telegram was concerned with "the situation on the battlefield around Road Number 7" Mr. Raynor pointed the witness to a list of names at the bottom of the telegram and asked what each name represented. Mr. Kanil informed the court that to the best of his knowledge "Uncle" referred to Pol Pot, "Uncle Nuon" referred to Nuon Chea, and the rest of the names, such as Uncle Van, he was unsure about but could represent other revolutionary names.

The witness was furnished with another telegram<sup>20</sup> detailing the movement of forces from Kompong Cham, addressed to "dear beloved Com. 870" from Comrade Pauk, and received on 5 May 1978. Asked about how genuine the telegram looked, Mr. Kanil confirmed by looking at the numbers at the top of the telegram that it was indeed genuine.

### ***Communication between Zones***

Mr. Raynor moved on to the logistics of communication between one zone and another, using Mr. Kanil's OCIJ interview to guide him through his testimony on this point.<sup>21</sup> When asked by the investigators as to whether communication between two zones was a possibility, the witness in his statement replied, "No, absolutely not. ... Communication between one zone to another without going through the center could not be done." When asked if he still maintains this statement, Mr. Kanil stood by his words with the slight qualification that sometimes permission was given by Office 870 to communicate directly. When asked why they were not allowed to communicate with other zones, the witness replied somewhat obscurely that they "did not want us to communicate directly."

Logically following from this point, Mr. Raynor produced another part of the witness' OCIJ interview<sup>22</sup> in which he talked about approval needed from the upper echelons in order to function. Mr. Kanil in his statement had said, "We could not do anything without approval from the upper echelon." The witness maintained his statement, elaborating that the subordinate had to respect the wishes of his superior.

### ***Witness Explains Distinction between Office 870 and M870***

Mr. Raynor stumbled upon an unintended avenue of inquiry when a question into Office 870 drew a distinction from the witness between Office 870 and M870. Another telegram was produced by the prosecutor, given to the witness, and shown on the screen in the courtroom<sup>23</sup>. The telegram, dated 20 March 1978, was numbered 32, sent from M870, and copied to Bong Sy and Bong Pauk. The telegram read, "Be informed that the East Zone has sent a copy of a report of the enemy's activities in Muk Kompul. Brother, please monitor this situation." Mr. Raynor asked the witness to clarify whether the east zone had indeed sent a report to "Office 870", to which the witness replied there was a difference between Office 870 and M870. "M870 was the

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<sup>19</sup> This telegram has the document number E3/932

<sup>20</sup> This telegram has the document number E3/516

<sup>21</sup> This interview has the document number E3/344, and the relevant ERNs are 00373499 (in Khmer), 00384430 (in English), and 00426150 (in French).

<sup>22</sup> This interview has the document number E3/74, and the relevant ERNs are 00373520 (in Khmer), 00384690 (in English), and 00426163 (in French).

<sup>23</sup> This telegram has the document number E3/254

office of the center,” he explained, “and if the telegram was sent to office 870 it was addressed to Angkar Nuon.” When asked whether the east zone could contact the central zone directly, Mr. Kanil replied that the “east zone would report to the centre.”

Turning again to the OCIJ interview of the witness,<sup>24</sup> Mr. Raynor asked the witness whether he stood by his statement that “Ke Pauk called me twice to talk about the telegram work and about the efficiency of the work.” The witness maintained the veracity of the statement and elaborated with a story relating to a time Pol Pot and Ke Pauk met and discussed the efficiency of his zone’s telegram communication links.

According to the testimony of the witness in court, Pol Pot had asked Ke Pauk if he had received a telegram from him, which he had not. So Ke Pauk summoned Mr. Kanil to explain the shortcomings in communication, with the warning that he could potentially be arrested. Mr. Kanil explained himself with the help of a witness, and eventually Ke Pauk forgave him following his explanation and a report detailing the reasons for the breakdown.

The President interrupted Mr. Raynor’s questioning at this point for the day’s adjournment and informed the court that resumption of questioning of Mr. Kanil will recommence on Monday, December 17, 2012.

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<sup>24</sup> This interview has the document number E3/344