



**“Not in Charge”: Witness Pean Khean Repeatedly Denies Leadership Roles  
as Questioning Continues**

On Thursday, May 16, 2012, the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) continued trial proceedings in Case 002 against accused Nuon Chea, Ieng Sary, and Khieu Samphan. The Chamber resumed the questioning of witness, Pean Khean, whose May 3<sup>rd</sup> testimony had been cut short due to illness. Keeping the court in session beyond its normal closing time, the Judges permitted the Prosecution and Defense to conclude examination of the witness this evening in order to avoid prolonging proceedings into the following day.

Trial Chamber President Nil Nonn called the Court into session, telling Mr. Khean “you look fresh this morning” and wishing him good health for the duration of his testimony before turning the floor over to Senior Assistant Prosecutor Tarik Abdulhak.

***The Prosecution Concludes Its Questioning***

Mr. Abdulhak began his examination by revisiting certain issues discussed during Mr. Khean’s May 3<sup>rd</sup> testimony. Concentrating largely on events around the time of Koy Thoun’s arrest and disappearance, Mr. Abdulhak began a string of inquiries into the witness’s whereabouts during this period. The witness explained that he was living at Chrang Chamres at the time of Koy Thoun’s arrest. His duties at this location, the witness elaborated, were “to take good care of the house” and provide food for Koy Thoun. When asked to describe Chrang Chamres, Mr. Khean referred to it as a location where “we would stay temporarily.” It was a small place, he continued, accommodating only 20 to 30 people, all of whom were working for Koy Thoun. There were “no outsiders,” Mr. Khean concluded.

When asked to describe events in Chrang Chamres directly after Koy Thoun's disappearance, Mr. Khean replied, "I did not notice any change." Mr. Abdulhak continued to seek details regarding Koy Thoun's disappearance, but Mr. Khean could only provide limited insight. He told Mr. Abdulhak that he learned of Koy Thoun's disappearance from friends. When asked about the whereabouts of Koy Thoun's wife during this time, Mr. Khean responded that she was not present at Chrang Chamres. Upon further questioning, Mr. Khean elaborated that he did not know where the wife was at the time of Koy Thoun's arrest and never discovered what happened to her after the fact. Summarizing the scope of his knowledge on this matter, Mr. Khean concluded, "I did not receive any information after Koy Thoun was arrested. I did not know what happened."

Moving on, Mr. Abdulhak asked Mr. Khean to describe his reaction to hearing the radio broadcast declaring Koy Thoun an "internal traitor" affiliated with the CIA. Mr. Khean responded that he felt "concerned" because he had been living with Koy Thoun and because he didn't know where to go. When asked whether he was afraid he might also be arrested, Mr. Khean responded, "Yes, indeed, I was."

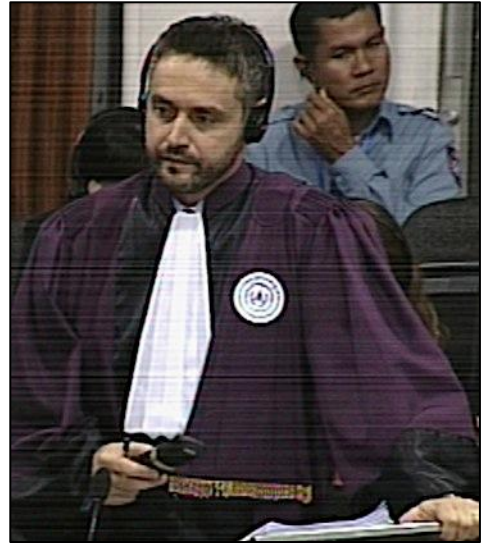
Mr. Abdulhak briefly questioned Mr. Khean about the personal biography he was asked to write after joining the Revolution. Mr. Khean stated he could only recollect writing the one and was unaware if any fellow staff at the time were also requested to write them.

Moving to the topic of the self-criticism sessions in which Mr. Khean participated, the prosecutor asked the witness to elaborate upon their content. The sessions, Mr. Khean began, took place every evening during which "people would be checked on their performance of their daily work." Interested in possible punitive measures resulting from poor performance, Mr. Abdulhak asked Mr. Khean if punishments were administered to those who continued to make mistakes. Mr. Khean replied that neither he nor any others were punished for mistakes revealed during these sessions. "If we made mistakes," he concluded, "we would be corrected time and again."

Changing course, Mr. Abdulhak began a series of questions regarding the state of Phnom Penh between the years 1975 and 1979. When asked to describe what the capital was like during this period, Mr. Khean said he did not see people move around the city after the liberation. However, he continued, he did see them move *immediately* after the liberation. Seeking clarification, Mr. Abdulhak asked Mr. Khean if he was referring to the April 17<sup>th</sup> evacuation. Mr. Khean responded affirmatively: "On April 17<sup>th</sup> I saw these people when I was traveling to Phnom Penh. I saw them walking on the road. The city itself was very quiet already." Mr. Khean was not aware if these people returned to the city before January 1979.

When asked whether he had freedom to move from place to place around the city, Mr. Khean stated he was not able to move freely unless he was given an assignment. Mr. Khean was unaware, however, if his colleagues at the K-1 or K-3 offices had such a privilege. Continuing with the discussion of Mr. Khean's colleagues, Mr. Abdulhak asked the witness if he ever noticed any colleagues disappearing from where they worked during this time. Mr. Khean replied that he only knew the matters relating to Pong and Koy Thoun. "I did not know or notice any other people who disappeared," he finished.

Given Mr. Khean's trouble recollecting details of certain events, Mr. Abdulhak asked President Nonn's permission to present a document to the witness containing passages from an interview Mr. Khean had taken part in a few years before. Hoping a recital of the witness's own words would refresh Mr. Khean's memory, President Nonn granted Mr. Abdulhak's request. The viewers in the public gallery, who appeared to vacillate between mild interest and patent boredom, began showing a new spark of interest. This interest was short lived, however. When asked if he was given a copy of the document placed before him before today, Mr. Khean replied, "Yes I was, but I cannot recall it due to my forgetfulness." Mr. Abdulhak continued to recite passages from the document for a short time thereafter. Mr. Khean, though confirming the validity of the statements, failed to offer any new insight or clarification.



Turning to the topic of Pang's disappearance, Mr. Abdulhak asked Mr. Khean how he found out Pang had been arrested or had disappeared. Mr. Khean responded that he had not personally seen Pang being arrested but was informed by his friends a few days after the event occurred. It was widely known among those working in K-1 and K-3, Mr. Khean continued, that Pang had been arrested and had disappeared. Asked whether he became afraid following Pang's disappearance, Mr. Khean replied, "I was living in fear when Koy Khuon disappeared and was even more terrified after Pang disappeared."

Mr. Abdulhak, seeing his time for examination was almost up, rushed through a series of questions regarding Mr. Khean's observations of meetings between top leaders of the Communist Party of Kampuchea (CPK) during the time he worked at the K-1 and K-3 offices. Although Mr. Abdulhak strenuously sought details regarding the identities of the attendees and the topics of discussion in these meetings, Mr. Khean reiterated that he never entered the rooms in which the meetings were held. He stated that although he was in charge of catering for these meetings, he stayed "mainly in the kitchen."

Having received permission from President Nonn to present Mr. Khean with another document, Mr. Abdulhak asked Mr. Khean to explain the term "high-level political education" referenced in the document. Mr. Khean explained that the term referred to high-level meetings among senior leaders – higher level, he stated, than meetings Pang normally chaired. The content of these meetings, he further elaborated, were more important than those regarding "ordinary peasants or workers." These meetings, Mr. Khean continued, concerned issues such as the "political line," how to construct a country, how to make sure people had enough to eat, etc. Mr. Khean was not sure who attended these meetings, but he surmised that the meetings would be composed of sector level officials or "at least" people working from K offices. Mr. Khean said he was invited to attend these meetings but remained silent as to whether he did in fact attend any of them.

Before proceeding further, Mr. Abdulhak asked Mr. Khean to elaborate upon the term “political line,” which the witness had previously mentioned. The first political line, Mr. Khean explained, established with the liberation of Phnom Penh in April 17, 1975, consisted of the following:

- Rebuild the country;
- Defend the country;
- Establish cooperatives;
- Create collective regimes; and
- Build dams and canals.

Mr. Khean was subsequently asked to elaborate upon the national defense strategy previously mentioned. The most important national defense points, Mr. Khean replied, were to stop Vietnam from invading and to stop the “American Imperialists” from returning.

Quickly moving to another topic in the last moments of his examination before the Court adjourned for break, Mr. Abdulhak asked Mr. Khean details of his activities in the months before entering Phnom Penh. Mr. Khean revealed that three months before going to Phnom Penh, he and his wife were sent to a cooperative known as Svay Meas. The cooperative, he stated, was where people go to be “refashioned.” Some of his responsibilities while at Svay Meas were fishing, growing vegetables, and fixing the looms. Mr. Khean continued to reiterate during this line of questioning that he was not “in charge” of others while working at Svay Meas. Although he stated he was “responsible for being tempered,” Mr. Khean emphasized that this task had nothing to do with his being in charge of a group. “Being tempered,” he explained, entailed no more than “being offered the daily activity to work.”

Mr. Abdulhak concluded his examination of the witness. Before adjourning for break, the Chamber granted the usual request by counsel for Ieng Sary to permit the accused to observe the remainder of proceedings from his holding cell.

### ***The Civil Parties Examine the Witness***

When Court resumed after morning recess, President Nonn handed the floor over to the co-lawyers of the civil parties. The International Civil Party Lead Co-Lawyer, Elisabeth Simonneau-Fort, greeted the president, judges, and the witness and began her examination by asking Mr. Khean to elaborate on what he meant when he previously said he “hoped the ECCC found justice for the country and the Cambodian people.” Mr. Khean responded, “I was saying that I wanted the tribunal to find justice for Cambodian victims – the true justice – and I want that these things will never happen again in the future, and I want Cambodia to be in peace and harmony.” Agreeing with Mr. Khean, Ms. Simmoneau-Fort stated that in order to reach this shared objective, Mr. Khean must provide the court with answers that are “as detailed as possible.”

Beginning with the birth of Mr. Khean’s involvement in the revolution, Ms. Fort asked if other children were recruited to join the revolution at a young age like he had been. Mr. Khean responded ambivalently, “Everyone all across the country was asked to join the revolution. I joined the revolution at an early age and eventually everyone joined regardless of their age.” Mr. Khean had no knowledge of why children would have had distinct roles in the revolution or what those roles would have been. “I did not notice any significant tasks being assigned to children,” Mr. Khean concluded.

Ms. Simmoneau-Fort moved on to the subject of disappearances, first asking Mr. Khean if he noticed any disappearances in the seven years he served in the revolution before arriving in Phnom Penh on April 17, 1975. Mr. Khean responded in the negative, stating that he had neither noticed disappearances nor saw people sent for “reeducation” prior to 1975.

Attempting to trace the chain of command back to those few holding authority to order arrests, the counsel asked Mr. Khean if he knew who decided to send people to the cooperative known as Svay Meas. Mr. Khean replied in the negative and responded to the next few questions negatively as well, reiterating that he was not aware of anyone transferred or moved from Svay Meas to S-21 or elsewhere during the three months he lived at the cooperative.

Trying an alternative route, the counsel, referring to one of the excerpts the co-prosecutor had read that morning, asked Mr. Khean, “Who was Khami?” Mr. Khean responded that Khami was the head of the Y-10 security unit. Though he could not confirm the security unit’s specific duties or whether one of those duties involved arrests, he was aware that Khami received orders from Pang, who in turn received direct orders from Pol Pot.

Ms. Simmoneau-Fort subsequently asked Mr. Khean to describe the context of his fear of being labeled a traitor after he discovered Koy Thuon had been arrested. The witness explained that normally, if a head of a unit were arrested, his subordinates would be implicated as they could have been affiliated with the work of his or her superior. To provide clarification, Mr. Khean rephrased his answer, stating, “My concern was that I would be accused of being a traitor and I was intimidated by the arrest of my superior. I noted that people in the unit kept disappearing and I started to be very afraid.”

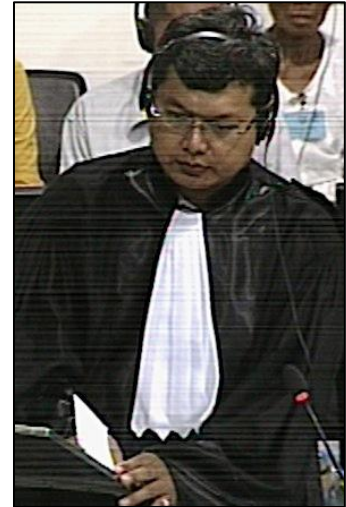
Attempting to understand the consequences that Mr. Khean may have endured had he disobeyed orders from a superior, Ms. Simmoneau-Fort asked Mr. Khean what would have happened had he done so. Before Mr. Khean can respond, President Nonn interjected that the question was too hypothetical, instructed Mr. Khean not to respond, and cautioned the counsel not to refer to any hypothetical facts when putting questions to the witness.

In response to the president’s instructions, Ms. Simmoneau-Fort rephrased the question, but Mr. Khean simply alluded to the criticism sessions mentioned earlier in his testimony, providing no further insight. When asked if he was able to say “no” to performing a task, Mr. Khean said there were instances in which he had done so. “Where I found it was impossible to accomplish the task alone,” Mr. Khean said, “I would refuse it.”

Answering Ms. Simmoneau-Fort’s final question, Mr. Khean clarified his earlier statements regarding the arrests of Koy Thuon and Pang. He testified that Koy Thuon was arrested by Angkar, which was the leadership. Mr. Khean, however, did not know who was responsible for arresting Pang, though he did know Pang’s immediate superior was Pol Pot.

After Ms. Simmoneau-Fort thanked witness and said she has no further questions, President Nonn turned the floor over to the National Civil Party Lead Co-Lawyer Pich Ang.

Mr. Ang began his examination of Mr. Khean with a barrage of questions regarding the state of Phnom Penh on the day of liberation – April 17, 1975. In a tedious, almost redundant manner, Mr. Ang asked a series of similar questions, often resulting in repeated and/or illogical answers from Mr. Khean. Considering the Court’s and the witness’s time fruitlessly wasted entertaining questions Mr. Khean had already firmly answered, Michael Karnavas, co-lawyer for Ieng Sary, interrupted Mr. Ang’s examination, arguing that these repetitious questions “have been asked and answered and are a waste of time.” President Nonn consequently reminded counsel for the civil parties to ask concrete, non-repetitious questions. After receiving the court’s decision, Mr. Ang announced that he has no further questions for Mr. Khean.



Before adjourning for the lunch recess, the Chambers granted Counsel for Nuon Chea’s request that the accused observe the remaining proceedings in his hold cell due to his “tiredness.”

#### ***Counsel for Nuon Chea Begins Examination of the Witness***

Resuming proceedings after a short lunch break, President Nonn handed the witness over for questioning to counsel for the accused, Nuon Chea. National Co-Lawyer for Nuon Chea, Son Arun, began his examination of Mr. Khean by inquiring about the witness’s familiarity with the *Revolutionary Flag* magazine. Mr. Khean was able to describe the cover of the magazine but admitted he had never had an opportunity to read its content.

Regarding his relationship with Nuon Chea, the witness also admitted it was not very close. He was a casual acquaintance of Nuon Chea, having worked in the kitchen with Nuon Chea’s wife at K-1. When asked to describe Nuon Chea’s character, Mr. Khean stated, “I remember knowing him as a person who is friendly, normal. I have never heard any problems caused by him.”

Reminding the witness that he had previously professed a close relationship with Pang, Mr. Arun requested Mr. Khean to describe Pang’s personality. The witness replied, “I received instructions on how to perform my work from him [Pang]. He would ask me to do this and do that and he would chit-chat with me, and he was known to be a normal person.”

Moving on, Mr. Arun asked whether the witness recalled the exact date of the attack by Vietnam in January 1979. Mr. Khean responded that he did not see the Vietnamese troops invade, but he did recall seeing a convoy of tanks and armored vehicles and soldiers on the roads. Calling the situation was “very chaotic,” the witness remembered that others were stating that the tanks belonged both to the Vietnamese and Cambodians.

Mr. Arun abruptly changed topics, inquiring about the aerial bombardments by the United States before 1975. Mr. Khean confirmed that he had witnessed the bombings, specifically recalling the sight of three B-52 bombers over his village dropping bombs. None of his family was injured by the American bombardments, he concluded.



### ***Proceedings Halt Momentarily Due to Ieng Sary's Medical Crisis***

President Nonn requested Mr. Arun to pause further examination of the witness during the beginning stages of the Chamber's afternoon proceedings. The Court briefly bustled with activity while the judges huddled and whispered among themselves. President Nonn was heard granting counsel for Ieng Sary permission to leave the Court in order to check on the condition of their client. While waiting for further information, the participants in the courtroom whispered among themselves.

After a few moments, President Nonn announced that Ieng Sary is currently suffering from "significant health issues" and will be "evacuated to a hospital immediately." However, Ieng Sary's counsel consulted his client and subsequently advised the court to continue with the proceedings accordance with Rule 81. Therefore, President Nonn permitted the examination of the witness to resume.

### ***Counsel for Nuon Chea Continues the Examination of the Witness***

Returning to the subject of the American bombings, Mr. Khean stated he had only witnessed damage to the paddy fields – the rice fields – and the bridges. He was not, however, aware of nor saw any human casualties.

Mr. Arun turned to yet another discussion of Mr. Khean's role in Svay Meas, the small cooperative where he was sent following the arrest of Koy Thuon. Mr. Khean once again responded, "At Svay Meas my task was not very important. I did not assume any leading role. I was only charged with the responsibility of overseeing the tempering session of the people over there." Elaborating further, the witness claimed, "There were about 30 people in that cooperative and my responsibility was not important. My everyday job was to go out fishing and when free I grew vegetables. And after that I was sent to Phnom Penh to work as a construction worker."

Mr. Arun subsequently concluded his examination of the witness and asked President Nonn to turn the floor over to his international co-counsel, Andrew Ianuzzi.

### ***Mr. Ianuzzi Discusses the Circus***

Andrew Ianuzzi added some "pizazz" to what would otherwise have seemed a monotonous afternoon. Mr. Ianuzzi began his examination by asking Mr. Khean if he was familiar with the Chaktomuk Theater or Conference Hall. Appearing somewhat befuddled, Mr. Khean replied that he did know of the theater but was unaware of its exact location. Mr. Ianuzzi continued asking questions regarding the theater, mentioning a Chinese circus group that gave a performance during the height of the Democratic Kampuchea (DK) period, among other historical tidbits. After the counsel asked Mr. Khean if he is aware the ECCC is in a copy of the Chaktomuk Theater, President Noon intervened, instructing the witness to refrain from answering the question because it is irrelevant.



Moving on to next set of questions, Mr. Ianuzzi revisited the subject of Mr. Khean's role at Svay Meas. Mr. Khean stated again: "I wish to reiterate again that I did not hold any position of importance. I was not the leader of that particular place." Mr. Khean clarified further, "I was in charge, but the word 'in charge' means that I oversaw the tempering session over there."

Mr. Ianuzzi requested permission from the Court to present a document to the witness containing details of events in cooperatives such as Svay Nea. This document was purportedly a statement by another witness, in which it is claimed that no political education took place in the cooperative and that people disappeared every night.

Before the witness could answer any questions related to this document, Mr. Abdulhak interjected, reminding the court that as a matter of principal, the parties have not been permitted to use statements of other witnesses during examination. While he did not object to the use, the prosecutor requested the bench provide clarification on the proper procedure for the use of such documents. In response, Mr. Ianuzzi argued that there is no legal basis to prevent them from presenting this document to the witness.

Rather than rendering a decision on this matter at the time, the president announced the afternoon break.

After the break, President Nonn resumed the proceedings and announced that the decision on the request to "impeach" the witness "will be rendered in due course." The president stated, for the time being, that co-counsel for Nuon Chea may place the document before the Chamber since it appears on the document list and no parties have previously objected to it. He reminded counsel, however, that the person giving the testimony in the document has not been summoned as a witness before the courts so the document has little probative value. President Nonn subsequently handed the floor over to Mr. Ianuzzi.

Turning back to the witness, Mr. Ianuzzi repeated his previous question, quoting a passage from the document that had previously been in debate: "There was no political education, just work at paddy farming. People disappeared every night and were under Y-10 guards. If anyone made any trouble, the Y-10 guards would arrest them and take them away." The counsel asked the witness if this refreshes his recollection if any people were taken away from Svay Meas. Mr. Khean responded, "People were removed, but I don't know whether they were taken away to be executed."

### ***Debate Over Documents Continues***

Mr. Ianuzzi sought to present a second document to the witness, though admitted that he was not aware if this particular document is on the prosecution's document list. He asked the President if the judges would like to deliberate on this point. Ms. Simoneau-Fort interrupted Mr. Ianuzzi's request to present a second document to the witness, objecting to the fact this document had not been provided to all parties or to the witness ahead of time.

Judge Cartwright offered her advice, stating that the question at issue is which documents can be presented during these proceedings in order to impeach or test the credibility of a witness. She



reiterated that the court will rule on this issue shortly but reminded counsel that it is not possible to use documents containing statements by an individual who will be a witness at a later stage.

With the debate temporarily quelled, President Nonn permitted Mr. Ianuzzi to proceed with his examination. Before the defense counsel is able to continue, however, Mr. Abdulhak raised additional objections concerning other documents whose rulings are still pending. Mr. Ianuzzi attempts to respond to Mr. Abdulhak's objection, differentiating the objections of those documents as being substantive, which he claims has no bearing on objections to documents seeking to be used to impeach a witness. Mr. Ianuzzi notes that he will stop using the word "impeach" as it has a strong, and quite negative, connotation in Khmer.

The technicality of the proceedings consuming the Court during afternoon session offered little dramatic appeal for those sitting in the public gallery. Examination of the witness was all but halted due to legal technicalities concerning the admissibility and proper use of documentation as evidence.

Michael Karnavas, realizing the afternoon session was soon scheduled to close, reminded the Court that it needed to make efficient use of the remaining time and allow the witness to get back to his home and family.

After much confusion Judge Cartwright summarized the Court's temporary conclusion on the matter: There is no major objection to a limited use of the documents bearing in mind that the Chamber will place limited weight to the documents unless the witness will be called.

President Nonn once again turned the floor over to Mr. Ianuzzi, who joked, "I apologize for failing to mention these documents had previously been objected to. I find it difficult to remember what I did yesterday let alone a few months ago. Perhaps that's why I'm such a bad lawyer."

#### ***Defense Counsel for Ieng Sary Questions Witness***

As Nuon Chea's counsel had concluded his questioning, President Nonn gave the floor to Co-Lawyer for Ieng Sary, Ang Udom. Mr. Udom attempted to ascertain the amount of contact Mr. Khean had with the leaders of the DK during the period Mr. Khean had worked in the kitchens at K1 and K3. Mr. Khean reaffirmed his statements that he never met with members of the DK leadership, that he never entered into the room during these meetings between the senior DK leaders, and that he did not know the subject matters discussed during them. "I was not one of the leaders, so it was not my job to know what was being discussed back then," Mr. Khean concluded.



Based on these responses, Mr. Udom asked Mr. Khean if it was then fair to say all of his statements regarding these meetings are simply based upon his assumptions. After rephrasing the question, Mr. Udom was able to elicit a "yes" from Mr. Khean.

Moving quickly to Mr. Khean's knowledge of the composition of Angkar, Mr. Udom proceeded with a similar form of questioning, distinguishing Mr. Khean's statements based on his assumptions versus those based on credible evidence. Mr. Khean stated he learned about Angkar's composition through word of mouth, as no written document containing such information existed.

***Chambers Remain Open Past Usual Closing Time to Complete Witness Examination***

President Nonn lastly handed the floor to the Co-Lawyer for Khieu Samphan, Anta Guisse. Ms. Guisse focused her examination upon the six-month period Mr. Khean worked within the offices of K-1 and K-3, sometime in late 1975.

Mr. Khean described K-1 as the area where Pol Pot lived. Though he did not reside in the same building as Pol Pot, Mr. Khean frequented Pol Pot's residence since his duties involved preparing food for the leader and other household chores. Mr. Khean could not recall how many floors the building had, but he did remember there was a fence around the perimeter of the house. Regarding special security procedures for entrance into K1, Mr. Khean stated that guards were stationed at the gate and were on duty around the clock.

After providing a description of K-1, Mr. Khean offered Ms. Guisse a description of what he could recollect of K-3. Mr. Khean described K-3 as larger and more crowded than K-1, though he could not recollect the appearance of any K-3 buildings. The security measures, he recalled, were similar to those at K-1. Although he did not reside at K-3, Mr. Khean stated he visited K-3 frequently, as he was in charge of delivering food provisions to the office. Mr. Khean recalled the kitchen being located to the north side of the compound and surrounded by separate houses. Ms. Guisse, following a similar form of questioning as Mr. Udom, subsequently sought to ascertain whether Mr. Khean's statements concerning meetings held at K-3 were based upon mere assumptions or credible evidence. Mr. Khean was unable to recall many of the details Ms. Guisse sought, including which house or which rooms the meetings were held.

Before adjourning the Court for the evening, President Nonn thanked the witness for his patience and cooperation during these proceedings and gave him leave to return home. Having finished the full testimony of Pean Khean, President Nonn announced that the Court will resume next Monday, May 21, 2012, during which time Chambers will begin hearing testimony of Witness TCW 487. In a final remark, President Nonn stated he had not been advised of the current health status of Ieng Sary, but the Chambers will revisit the issue Monday if necessary.