



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

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

18 August 2016
Trial Day 441

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 26-Jan-2017, 12:12
CMS/CFO: Sann Rada

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
Victor KOPPE
LIV Sovanna
Anta GUISSSE
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:
Stavoroula PAPAPOPOULOS
SE Kolvuthy

Lawyers for the Civil Parties:
CHET Vanly
Marie GUIRAUD
PICH Ang
SIN Soworn

For the Office of the Co-Prosecutors:
Dale LYSAK
SENG Leang
SONG Chorvoin

For Court Management Section:
SOUR Sotheavy

I N D E X

Mr. SUOY Sao (2-TCW-1029)

Questioning by The President (YA Sokhan) page 2

Questioning by Mr. KOPPE page 5

Questioning by Mr. LYSAK page 40

Questioning by Mr. LYSAK resumes page 71

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KOPPE	English
Mr. LYSAK	English
Mr. PICH Ang	Khmer
Mr. SUOY Sao (2-TCW-1029)	Khmer
The President (YA Sokhan)	Khmer

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

2 (Court opens at 0859H)

3 MR. PRESIDENT:

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

5 Today, the Chamber hears testimony of a witness, 2-TCW-1029.

6 Ms. Se Kovulthy, please report the attendance of the parties and
7 other individuals to today's proceedings.

8 THE GREFFIER:

9 Mr. President, for today's proceedings, all parties to this case
10 are present.

11 Mr. Nuon Chea is present in the holding cell downstairs. He has
12 waived his right to be present in the courtroom. The waiver has
13 been delivered to the greffier.

14 The witness who is to testify today, namely, 2-TCW-1029, took an
15 oath yesterday afternoon -- yesterday before the Iron Club Statue
16 and is ready to be called by the Chamber. There is no reserve
17 witness today. Thank you.

18 [09.01.13]

19 MR. PRESIDENT:

20 Thank you, Greffier. The Chamber now decides on the request by
21 Nuon Chea.

22 The Chamber has received a waiver from Nuon Chea, dated 18 August
23 2016, which states that, due to his health, that is, headache,
24 back pain, he cannot sit or concentrate for long and in order to
25 effectively participate in future hearings, he requests to waive

2

1 his right to be present at the 18 August 2016 hearing.

2 He advises that his counsel advised him about the consequence of
3 this waiver, that in no way it can be construed as a waiver of
4 his rights to be tried fairly or to challenge evidence presented
5 to or admitted by this Court at any time during this trial.

6 Having seen the medical report of Nuon Chea by the duty doctor
7 for the accused at the ECCC, dated 18 August 2016, which notes
8 that, today, Nuon Chea has chronic back pain when he sits for
9 long and recommends that the Chamber shall grant him his request
10 so that he can follow the proceedings remotely from the holding
11 cell downstairs. Based on the above information and pursuant to
12 Rule 81.5 of the ECCC Internal Rules, the Chamber grants Nuon
13 Chea his request to follow today's proceedings remotely from the
14 holding cell downstairs via an audio-visual means.

15 The Chamber instructs the AV Unit personnel to link the
16 proceedings to the room downstairs so that Nuon Chea can follow.
17 That applies for the whole day.

18 Court officer, please usher witness 2-TCW-1029 into the
19 courtroom.

20 (Witness enters the courtroom)

21 [09.04.39]

22 QUESTIONING BY THE PRESIDENT:

23 Q. Good morning, Witness. What is your name?

24 And please observe the microphone. You should speak only after
25 you see the red light on the tip.

1 MR. SUOY SAO:

2 A. My name is Suoy Sao.

3 Q. And when were you born?

4 A. I was born in 1956.

5 Q. What is your current occupation?

6 A. I work in the farm.

7 [09.05.38]

8 Q. What are the names of your parents?

9 A. My father is Suoy Heng (phonetic).

10 Q. What is your wife's name, and how many children do you have?

11 And again, Mr. Witness, please observe the microphone.

12 A. My wife is Chay Auy. We have six children.

13 Q. Thank you, Mr. Suoy Sao. The greffier made a report that, to

14 your best knowledge, you are not related, by blood or by law, to

15 any of the two accused, that is, Nuon Chea and Khieu Samphan, or

16 to any other civil parties admitted in Case 002. Is that report

17 accurate?

18 A. Yes, it is.

19 Q. The greffier also made an oral report that you took an oath

20 before the Iron Club Statue before your appearance. Is that true?

21 A. Yes, it is, Mr. President.

22 [09.07.02]

23 Q. Thank you. The Chamber would like now to inform you of your

24 rights and obligations as a witness.

25 About your rights, as a witness in the proceedings before the

4

1 Chamber, you may refuse to respond to any question or to make any
2 comment, which may incriminate you. That is your right against
3 self-incrimination.

4 For your obligations, as a witness in the proceedings before the
5 Chamber, you must respond to any questions by the Bench or
6 relevant parties except where your response or comment to those
7 questions may incriminate you, as the Chamber has just informed
8 you of your right as a witness.

9 You must tell the truth that you have known, heard, seen,
10 remembered, experienced or observed directly about an event or
11 occurrence relevant to the questions the Bench or the parties
12 pose to you.

13 And Mr. Suoy Sao, have you been interviewed by investigators from
14 the Office of the Co-Investigating Judges? If so, how many times,
15 when and where?

16 [09.08.30]

17 A. I was interviewed once in my village.

18 Q. Thank you. And before your appearance today, have you read or
19 reviewed the written record of your previous interview with OCIJ
20 investigators in order to refresh your memory?

21 A. Yes, I have.

22 Q. And to your best knowledge, can you tell the Chamber whether
23 the written record of your interview, that you have read in order
24 to refresh your memory, is consistent with what you told the
25 investigators?

5

1 A. Yes, it is.

2 Q. Thank you. Pursuant to Rule 91 bis of the ECCC Internal Rules,
3 the Chamber hands the floor first to the defence team for Nuon
4 Chea to put questions to witness Suoy Sao. And Nuon Chea defence,
5 you have one court session to put questions to this witness.

6 You may proceed.

7 [09.09.56]

8 QUESTIONING BY MR. KOPPE:

9 Thank you, Mr. President. Good morning, Your Honours, good
10 morning, counsel, good morning, Mr. Witness.

11 Just to inform you, Mr. President, the defence has two sessions.

12 I will be using most of the second session as well, leaving the
13 remainder of the time to the Khieu Samphan team after the
14 Prosecution and the civil parties have finished their
15 questioning.

16 Q. Mr. Witness, good morning again. You were interviewed once. Is
17 it correct that you were not, in fact, interviewed by
18 investigators of this Court but, rather, by people working for an
19 organization called DC-Cam?

20 [09.10.59]

21 MR. SUOY SAO:

22 A. I am not sure about that.

23 Q. All right. Let me ask you questions first about the period
24 before 17 April 1975. Can you tell us when it was that you joined
25 the revolution?

6

1 A. It was since 1972.

2 Q. And where was it that you joined the revolution, in which part
3 of the country?

4 A. It was in Chambak -- Chambak Panhnha village.

5 Q. Do you recall which division you joined in '73 or '72, which
6 military division of the revolutionary forces?

7 A. It was in Division 310.

8 Q. Is it correct that Division 310 was called Division 1 before
9 the liberation? Was it called the 1st Division?

10 A. Yes, that is correct.

11 [09.12.47]

12 Q. Is it correct that you were in Regiment 14 of Division 1?

13 A. I was in Regiment 11.

14 Q. You said -- you agreed with me that Division 310 used to be
15 Division 1.

16 Was there also, before the liberation, a Division 2, a 2nd
17 Division?

18 A. I did not know about that.

19 Q. Have you ever heard of a division called Division 920?

20 A. No, I did not.

21 Q. Is it correct that Division 1 was part of what is called the
22 North Zone?

23 A. Yes, that is correct. It belongs to the North Zone.

24 [09.14.40]

25 Q. Do you recall, who was the chief of the North Zone before

7

1 1975?

2 A. It was Ta Voeung.

3 Q. I'm not sure if I heard the translation right. Did you say Ta
4 Huon or did you say Khuon or, in other words, Koy Thuon?

5 A. It was Ta Voeung who was commander of Division 1 <in the North
6 Zone>, which was later on changed to Division 310.

7 Q. Now I understand. You referred to Ta Oeun being the Division
8 1/Division 310 commander. Do you also remember who the chief of
9 the North Zone was?

10 A. I did not know that person.

11 Q. I will come back to that a bit later. Do you recall the attack
12 on Phnom Penh in April '75? If yes, were you involved in this?

13 A. I participated in the event with Ta Voeung.

14 Q. And is it correct that you entered Phnom Penh in 1975, with
15 the 1st Division, coming from Kampong Thom?

16 A. I cannot recall that. I have forgotten about it.

17 [09.17.06]

18 Q. Can you tell the Court what you did after the liberation of
19 Phnom Penh in April '75? Where were you stationed, what did you
20 do?

21 A. I was stationed at Tuol Kork.

22 Q. Where, exactly, in Tuol Kork?

23 A. It was near the railway station.

24 Q. Did Division 310 have its headquarters in Tuol Kork or was it
25 closer to Wat Phnom, or was it somewhere else?

8

1 A. I was stationed in Tuol Kork and, later on, I was transferred
2 to an area called Kab Srov.

3 [09.18.26]

4 Q. When were you transferred to that area?

5 A. I cannot recall the year.

6 Q. And what did you do at Kab Srov?

7 A. I worked in the rice field.

8 Q. And how long did you work in the rice fields of Kab Srov?

9 A. I worked there for about one year.

10 Q. And where did you go subsequently?

11 A. After I left Kab Srov, I was sent to fight against the
12 Vietnamese troops in Kampong Cham.

13 Q. And after fighting with the Vietnamese troops, what did you do
14 subsequently?

15 A. I was then withdrawn to go and live in the village.

16 Q. Is it correct to say that during the whole period of
17 Democratic Kampuchea you were a soldier?

18 A. Yes, that is correct.

19 Q. At any point in time, did you have any rank within Division
20 310, or have you always been a soldier or a combatant?

21 A. I remained as a combatant.

22 Q. Mr. Witness, are you able to read and write?

23 A. A little.

24 Q. I would like to request you to have a look at a list with some
25 names, and my question is if you -- if you know these names.

1 Mr. President, with your leave, I would like to show a page from
2 a document, E3/1585. It's a list of participants during the first
3 general staff training, 20 October 1976. English, ERN 00897650
4 and 51; Khmer, 00095533 until 34; French is subsequently after
5 page 00611636.

6 So with your leave, Mr. President, I would like to show--
7 [09.22.15]

8 MR. PRESIDENT:

9 Court officer, please deliver the document from the defence
10 counsel to the witness.

11 BY MR. KOPPE:

12 Q. I will read the names for you as well so that you can follow
13 me well.

14 Mr. Witness, the first highlighted name is someone you mentioned
15 already, Comrade Oeun. He is listed as secretary of Division 310.
16 Number 2 on the list is Comrade Voeung. Do you know Comrade
17 Voeung?

18 MR. SUOY SAO:

19 A. Yes, I know that person, Voeung.

20 Q. And who was he?

21 A. He was the divisional commander.

22 Q. Number 6 on that list is Comrade Chhan. Do you know who he
23 was?

24 A. No, I do not know this person.

25 Q. He was the secretary of Regiment 11. Does Regiment 11 mean

10

1 anything to you?

2 A. I cannot recall that name. I was pretty young at the time.

3 Q. No problem, Mr. Witness. Number 16 is the secretary of

4 Regiment 12 named Comrade Pheng. Do you know him?

5 [09.24.38]

6 A. No, I don't.

7 Q. Number 26, secretary of Regiment 13, Comrade Song. Do you

8 remember him, or do you know him?

9 A. No, I don't.

10 Q. Number 31, Comrade Yim, secretary of a battalion?

11 A. I do not know him.

12 Q. Three more. Number 38, Comrade Houn, secretary of Regiment

13 311.

14 A. I do not know him.

15 [09.25.35]

16 Q. Number 40, Comrade Mach, secretary of Battalion 312.

17 A. I do not know this person.

18 Q. And finally, Comrade Than, secretary of Battalion 315. Is that

19 someone you know?

20 A. I do not know this person.

21 Q. Are there any other Division 310 commanding officers or

22 combatants that you do remember besides Ta Oeun and Ta Voeung?

23 A. I don't.

24 Q. Now, let me ask you about two people that you did mention in

25 your statement to DC-Cam, Chan Chakrey. Do you recall someone

11

1 called Chan Chakrey?

2 A. I only heard of his name.

3 Q. And what was it that you heard about him?

4 A. At the time I heard of his name, it was during the attack on
5 Phnom Penh.

6 Q. Which attack on Phnom Penh do you mean, the attack in April
7 '75 or another attack?

8 A. It was since 1976.

9 [09.27.57]

10 Q. I will get back to Chan Chakrey, but one last question before
11 I turn to another person.

12 Was Chan Chakrey part of the forces from the North Zone at one
13 point?

14 A. No, he was part of the East Zone, that is, from the east.

15 Q. That is indeed correct, but do you know whether, before he
16 went to the East Zone, he was part of North Zone forces?

17 MR. PRESIDENT:

18 Witness, please repeat your response since, when you spoke, the
19 microphone was not yet operational.

20 [09.29.15]

21 MR. SUOY SAO:

22 I did not know anything about that.

23 BY MR. KOPPE:

24 Q. No problem. Someone else you've mentioned in your DC-Cam
25 statement, someone we all know, Prime Minister Hun Sen. Was he

12

1 ever part of North Zone forces?

2 MR. SUOY SAO:

3 A. No, I do not know about that.

4 Q. Just to be complete in this respect, Mr. Witness, we had a
5 witness testifying in this Court on the 22nd of June 2015. He was
6 also a Division 310 combatant. His name is Sem Hoern. And at
7 15.27, he said:

8 "I saw Hun Sen being in the Division 310 in the North Zone. When
9 I saw him, he was attached to Division 310."

10 Is that something that you can react to or is it something that
11 doesn't mean anything to you?

12 A. I did not know anything about that.

13 Q. I will get back to him as well. Mr. Witness, a bit earlier, I
14 asked you who the chief -- former chief of the North Zone was
15 before '75. Does the name Koy Thuon or Khuon mean anything to
16 you?

17 [09.31.37]

18 A. I do not know this individual.

19 Q. Finally, another person from the non-military side. Does the
20 name Tol, T-O-L, mean anything to you?

21 A. I do not know.

22 Q. All right. Mr. Witness, let's go to an important subject. Do
23 you know -- let me ask it an open way. You said your commander or
24 the commander of Division 310 was Ta Oeun. What happened to Ta
25 Oeun?

13

1 A. He was arrested.

2 [09.32.42]

3 Q. Why was he arrested?

4 A. He staged a coup at the time.

5 Q. What, exactly, did Ta Oeun do? What did he do to stage a coup
6 d'etat?

7 A. He wanted to topple Pol Pot's regime.

8 Q. And when was that, that Ta Oeun wanted to topple the regime,
9 started a coup d'etat? Do you remember when that was?

10 A. It was in -- it was from 1976.

11 Q. Was it at the end of '76, early '77? Could that be possible?

12 A. It was in mid-year.

13 Q. Let me ask it differently. Do you recall when, exactly, it was
14 that Ta Oeun and others were arrested?

15 A. I cannot recall it.

16 Q. Does it jog your memory if I say Oeun and others were arrested
17 some time in February 1977?

18 A. I cannot recall it since I was pretty young at the time.

19 [09.35.07]

20 Q. That is no problem, Mr. Witness. You mentioned staging of a
21 coup d'etat, the toppling of the government. What, exactly, did
22 Ta Oeun have in mind of doing? What was -- what were his plans?
23 How was he going to effectuate that coup d'etat? What was going
24 to happen? Can you tell us? Can you tell us?

25 A. I cannot tell you, Counsel, since I do not know about that.

14

1 Q. Well, let me see if I can assist you a bit, Mr. Witness. Do
2 you know whether there was a meeting organized by Ta Oeun, during
3 which he discussed attacking Phnom Penh, taking control of Phnom
4 Penh?

5 [09.36.19]

6 A. I cannot recall it since I was at a -- at the back <line>

7 Q. Do you know whether there were combatants involved of Division
8 310 in that coup d'etat and, if yes, how many?

9 A. It was around 100.

10 Q. Did you have a specific task in the preparation of this coup
11 d'etat or this attack on Phnom Penh?

12 A. I do not know, but I -- what I know is that there was
13 involvement by the division.

14 Q. Did you have to do anything with taking trucks full of weapons
15 to meet Oeun in Phnom Penh for the preparation of the attack?

16 A. I was a rank and file soldier, and I was told to get ready.

17 Q. Do you know if there was a special force that was involved in
18 attacking Phnom Penh?

19 A. There was the forces from the east.

20 Q. I will get back to that as well a bit later, Mr. Witness, but
21 was there a special squad from Division 310, involved in the
22 planned attack on Phnom Penh or Pol Pot?

23 A. For this particular point, I do not know.

24 [09.38.55]

25 Q. Let me see if I can refresh your memory a bit, Mr. Witness.

15

1 Your DC-Cam statement, E3/7535; English, ERN 00324168; Khmer,
2 00087817; French, 00324206.

3 "Ta Oeun planned an attack plot. Unfortunately, when that plot
4 was compromised, we were transferred to farm paddy for a while."

5 Question: "Can you elaborate Ta Oeun's plot?"

6 "First he called us for a secret meeting and instructed us that
7 he planned to attack Phnom Penh. He told to deliberate and take
8 control of Phnom Penh."

9 "Did Oeun -- Ta Oeun hold a meeting with his previous forces?"

10 "Yes. Only 100 combatants, including me, were called to attend
11 that meeting."

12 [09.40.13]

13 Question: "Did you join with them?"

14 Answer: "I took on a truck full of weapons to meet him in Phnom
15 Penh in the preparation to attack Phnom Penh. Unfortunately, the
16 plot was compromised."

17 Question: "What was your position in that 100 combatant force?"

18 "A combatant, but they selected a special squad for attacking."

19 "All 100 members?"

20 "Yes. We were ready for the attack."

21 Question: "Was that the assault force?"

22 "Assault force as well as prevention force. We received bullets,
23 ammunitions from foreign countries." End of quote.

24 Mr. Witness, that part from your DC-Cam statement that I just
25 read back to you, is that accurate?

1 A. Yes, that is.

2 Q. You're talking about an attack planned -- an attack against
3 Phnom Penh. Do you recall whether there were any specific targets
4 that were supposed to be attacked in the framework of this coup
5 d'etat?

6 [09.42.04]

7 A. It was to topple Khieu Samphan.

8 Q. Let's leave aside. But my question was not so much about
9 persons, but about specific places in Phnom Penh. Was the idea of
10 Ta Oeun to attack certain areas or certain things in Phnom Penh?

11 A. I do not know. I heard of the order.

12 Q. Did Ta Oeun speak about units, within Division 310, that were
13 supposed to attack and occupy Pochentong airport?

14 A. I do not know about that, either.

15 Q. Did you hear Ta Oeun speak about attacking and taking control
16 over Radio Phnom Penh?

17 [09.43.39]

18 A. No, I did not since I was simply an ordinary soldier.

19 Q. So your only task was bringing this truck of weapons to Phnom
20 Penh? Is that correct?

21 A. Yes.

22 Q. You also talked in your DC-Cam statement, E3/7535; English,
23 ERN 00324171; Khmer, 00087821; and French, 00324210; about
24 storing guns in the warehouse.

25 Do you recall being involved in storing weapons in warehouses,

17

1 weapons that were to be used for the attack on Phnom Penh and the
2 coup d'etat?

3 A. I cannot recall it.

4 Q. A bit earlier this morning, you confirmed the excerpt from
5 your statement to DC-Cam that I just read to you. Also the part
6 on assistance of foreign countries.

7 Earlier, you also mentioned Chakrey and support of East Zone
8 forces. Let me read to you what you said on page 18 of your
9 DC-Cam statement, English ERN 00324172, French 00324210 and Khmer
10 00087822. You said:

11 [09.46.19]

12 "It was not easy to defeat Pol Pot. If we could not defeat Pol
13 Pot, we would appeal to Vietnam and called for force at the east
14 under Chakrey to help. Ta Oeun told me this."

15 And a bit earlier in that same DC-Cam statement, you said the
16 Vietnamese also came in until the plot was compromised. Is that
17 correct? Did you recall saying this to DC-Cam?

18 MR. PRESIDENT:

19 You may now proceed, Deputy Co-Prosecutor.

20 MR. LYSAK:

21 Thank you, Mr. President.

22 I want to note for the record that counsel left out two very
23 important words in the first answer he read. The witness used the
24 words "I guessed". Counsel admitted (sic) that in reading the
25 statement of the witness.

18

1 [09.47.34]

2 BY MR. KOPPE:

3 Well, in my translation -- I will read the whole excerpt, Mr.
4 President. It says:

5 Question: "According to that preparation, do you think that his
6 force could defeat Pol Pot?"

7 Answer: "It was not that easy, I guessed." -- Full stop -- "If we
8 could not defeat Pol Pot, we would appeal to Vietnam and called
9 for force at the east under Chakrey to help."

10 I suppose that "I guessed" is about it not being easy, so I don't
11 think that guessing has anything to do with Pol Pot defeating and
12 the appeal to Vietnam and Chakrey. But of course, I only have the
13 English translation. But -- so with your permission, I will move
14 on.

15 Q. Mr. Witness, is that correct? Did you say that, "If we could
16 not defeat Pol Pot, we would appeal to Vietnam and called for
17 force at the east under Chakrey to help"? Is that something that
18 Ta Oeun told you?

19 MR. SUOY SAO:

20 A. That is true.

21 [09.48.59]

22 Q. Can you -- I realize it's a long time ago, Mr. Witness, but do
23 you recall what it exactly was that he said? Did he -- did he
24 tell you and the other 100 combatants how he was going to appeal
25 to Vietnam, what Chan Chakrey was supposed to be doing? Can you

19

1 recall any details as to what, exactly, Ta Oeun said?

2 A. I cannot recall it. I forgot it.

3 Q. On that same page, you're a bit more specific as to the
4 assistance of Vietnam in that coup d'etat attempt and the attack
5 on Phnom Penh. You said -- the question is, "Could these 100
6 combatants defeat Pol Pot?" And then you say:

7 "Sure, I guessed. First they planned to attack from inside. When
8 the plot was compromised, they planned to call for help from the
9 'Yuon'." End of quote.

10 Do you remember saying this to DC-Cam?

11 [09.50.29]

12 A. Yes.

13 Q. And did Ta Oeun explain how they were going to call to the
14 'Yuon'? What was Ta Oeun supposed to do in the case that the plot
15 was compromised?

16 A. I do not know since I was <an ordinary soldier>.

17 Q. I understand. And what was Chan Chakrey supposed to do? Do you
18 -- and his forces from the east -- what were they supposed to do?
19 Is that something that Ta Oeun told you and the others during
20 that meeting, that secret meeting?

21 A. I do not know, either.

22 Q. Let me see if I can assist you a bit in, maybe, jogging your
23 memory some more, Mr. Witness.

24 There is a female combatant from Division 310, who also gave
25 testimony to DC-Cam. That is -- I won't give her name. That is

20

1 2-TCW-1030. And in her statement, E3/7540, she says the
2 following -- and let me get the ERNs. ERN English, 00337712;
3 Khmer, 00055077; French, 00364274. This -- this company
4 chairperson, this female combatant, says the following, and let
5 me quote her:

6 [09.52.42]

7 Question: "It would have erupted?"

8 "Yes. It erupted in '76, but I cannot recall the month. I have
9 forgotten the month. In late '76, we were going to erupt, but it
10 was exposed. The two North Zone divisions were readied from Wat
11 Phnom northward. The East Zone in charge to the south was ready
12 to fight, but it was exposed, and Khoun, the chairman of the
13 North Zone, was arrested." End of quote.

14 So, Mr. Witness, this female combatant from Division 310 says
15 that the two North Zone divisions were readied from Wat Phnom
16 northward. Is that something that you recall Ta Oeun saying
17 during that secret meeting?

18 [09.53.58]

19 A. I cannot recall it. I have forgotten it all.

20 Q. What about the East Zone forces? You, yourself, mentioned
21 Chakrey and the East Zone forces.

22 Were they supposed to attack Phnom Penh from the south?

23 A. Yes, <> toward the south.

24 Q. So, the two North Zone divisions, 310 and 450, were supposed
25 to attack Phnom Penh from the north and the East Zone rebellious

21

1 forces were supposed to attack from the south. Am I understand
2 that -- am I understanding that correctly?

3 A. That is correct.

4 Q. Just coming back again to Prime Minister Hun Sen, as I said,
5 you mentioned him in your own statement, the very end. But
6 there's another Division 310 combatant, a company commander, who
7 also talks about him. That is document E3/7583. I will not
8 mention his name, either. He is 2-TCW-1033.

9 He said the following, not necessarily talking about the same
10 meeting, but maybe another meeting, and I quote:

11 [09.56.07]

12 "It was a treasonous meeting because they were going to stage a
13 rebellion. It was a CIA meeting. At that time, they were planning
14 to attack the Pol Pot garrison, but they failed because Ta Oeun,
15 who was in the same clique with Hun Sen, was arrested."

16 Now, this witness is talking about Hun Sen being in the same
17 "clique" with Ta Oeun. Is that something that somehow jogs your
18 memory?

19 A. I cannot recall it. I have forgotten it.

20 MR. PRESIDENT:

21 You may now proceed, Deputy Co-Prosecutor.

22 [09.57.01]

23 MR. LYSAK:

24 I simply -- if counsel could just provide the ERNs. I don't think
25 I received the -- we received the ERNs for this.

1 BY MR. KOPPE:

2 Certainly. I apologize. It's page 32, English, ERN 00876559;
3 Khmer, 00053869; French, 00407996.

4 Q. Mr. Witness, as I said, there are quite a number of Division
5 310 combatants who talk about the coup d'etat and the way the
6 coup d'etat was supposed to be executed. Let me read to you
7 testimony from that person that I mentioned earlier, Sem Hoern,
8 who testified in this courtroom and -- also a day later, on the
9 23rd of June 2015. In the morning, he said the following at 9.11
10 and a bit later as well.

11 Question: "Was it also the intention in conjunction with the
12 attack on Pochentong airport and the radio station to stage a
13 coup d'etat against Democratic Kampuchea?"

14 "Yes, that is correct. The intention was to occupy the radio
15 station and, after that, to take over the Pochentong airport to
16 stop any further flood in or out of Democratic Kampuchea."

17 Question: "I understand, but was it also the intention to
18 overthrow the government of Democratic Kampuchea, in other words,
19 to stage a coup d'etat?"

20 Answer: "That was the ultimate aim, that is, to conduct a coup
21 d'etat."

22 [09.59.23]

23 And now, and that's the important part, and that's a bit further
24 down -- it's at 9.13, he says:

25 "Let me clarify the rebellion plan. There was Ta So Phim in the

1 East Zone and Ta Koy Thuon in the North Zone. They already
2 prepared their forces in the front line and at the rear. The army
3 of the Centre was prepared for the front line, a plan to attack
4 Phnom Penh. The sector forces were to attack behind at the sector
5 level. This is what I know." End of quote.

6 And to give a little bit more detail, the same witness, when he
7 talks about the radio station, he means the radio station at
8 Stueng Mean Chey. That is something he said at 9.09.

9 Now, Mr. Witness, you, yourself, in your DC-Cam statement, spoke
10 extensively about So Phim. Do you know whether So Phim was
11 somehow involved in this coup d'etat, rebellion, attack on Phnom
12 Penh, etc. in -- end of '76, early '77?

13 [10.00.56]

14 MR. SUOY SAO:

15 A. I do not know about that particular point.

16 Q. Let me then ask you what it is that you remember, yourself
17 ,about So Phim. Who was So Phim; do you know?

18 A. I do not know about that.

19 Q. Can you -- I know it's difficult, Mr. Witness, in an open
20 Court to testify about this, but you spoke extensively about So
21 Phim in your own statement. Again, do you remember who he was?

22 A. I forget about it.

23 Q. Did you know anything about the uprising in the East Zone
24 under the leadership of So Phim?

25 A. No, I don't.

1 [10.02.21]

2 Q. Then let me read back your testimony to DC-Cam, Mr. Witness.

3 At one point in time, you say, "I was transferred to the mobile

4 -- to a mobile unit which was located south of Chrum with Ta So

5 Phim." And you talk about a hospital. And then you say yes -- the

6 question:

7 "Then you said you were transferred to stay with So Phim; right?"

8 "Yes. When I was transferred to protect the mobile unit at the

9 back line."

10 Question: "To protect the mobile unit?"

11 "They were afraid the members of mobile unit ran into forests and

12 would be captured by the east forces that had provoked uprising

13 and run into the forest earlier."

14 "You said that the southwest force had provoked uprising; right?

15 Did the East Zone forces also provoked uprising?"

16 [10.03.30]

17 And you answer, "Yes."

18 "How did they provoke uprising?"

19 And then you answer:

20 "They ran into forests and started to attack against Pol Pot. So

21 Phim led that uprising force. Then the forces from Pol Pot

22 destroyed his forces. Some escaped and hid themselves in the

23 forest.

24 Question: "How about So Phim?"

25 "He shot at himself."

1 Question: "Did you see his corpse?"

2 "No, but other people saw his corpse was stored in ice and
3 transported in a truck."

4 Does this refresh your memory about So Phim?

5 A. I recall part of it, but I cannot make a full response to you.

6 Q. Let me first ask, is this what you said to DC-Cam? Is what I
7 read to you from your statement correct? Is it a correct
8 recollection of the events in '78?

9 A. Yes, that is correct.

10 Q. Did you ever see So Phim in person? Did you see him with your
11 own eyes?

12 [10.05.13]

13 A. No, I did not.

14 Q. Can you recall when it was, exactly, that So Phim's forces
15 clashed with Pol Pot's forces?

16 A. I cannot recall that.

17 Q. How did you find out that So Phim had shot himself?

18 A. Soldiers talked about it.

19 Q. Do you remember where you were exactly when you heard the
20 story about So Phim having killed himself?

21 A. I was at Kandaol Chrum.

22 [10.06.31]

23 Q. A bit further again in your DC-Cam statement, English, ERN
24 00324184; Khmer, 00087837, French, 00324226; you said the
25 following, "Since So Phim campaigned an uprising" -- that's a

1 question, sorry.

2 "Since So Phim campaigned an uprising, were all people in the
3 east imprisoned or could they live as usual?"

4 Answer: "Forces did not touch ordinary people." End of quote.

5 Do you recall saying that, that Pol Pot forces did not touch
6 ordinary people?

7 A. Yes, that was the statement that I made.

8 Q. And how is it that you knew this at the time? What was your --
9 what was the source of your knowledge about this?

10 A. Because there were soldiers and not civilians.

11 Q. I will get back to this. But now turning back to my original
12 question, you do now remember So Phim. You do remember having
13 been in the East Zone.

14 Is it correct what fellow combatant, Sem Hoern, has said in this
15 courtroom, that the coup d'etat end '76, early '77, was a
16 combined effort from the East Zone forces and the North Zone
17 forces and that So Phim was involved in this attempted coup
18 d'etat together with Koy Thuon?

19 A. Yes, that is correct.

20 MR. KOPPE:

21 Mr. President, this might be a good time to break.

22 MR. PRESIDENT:

23 Thank you, Counsel.

24 The Chamber will take a 20 minute break and resume after.

25 (Court recesses from 1009H to 1029H)

1 MR. PRESIDENT:

2 Please be seated.

3 And the floor is next given to the Co-Prosecutor to put
4 questions.

5 MR. KOPPE:

6 No, I think not, Mr. President. We're still asking questions.

7 (Judges deliberate)

8 [10.31.23]

9 JUDGE FENZ:

10 Let us just clarify something. There is a bit of unclarity (sic)
11 on the bench.

12 What you said in the morning, you said you would use the first
13 session, you have coordinated with the Khieu Samphan team who are
14 happy to give you a large part of the second session, so the idea
15 is you will stop whenever according to your agreement you are
16 done. Then we are giving it to the Prosecutors and Co-Lead
17 Lawyers and whatever is left then goes to the Khieu Samphan team.
18 Did I understand it correctly?

19 MR. KOPPE:

20 A hundred per cent.

21 JUDGE FENZ:

22 Good.

23 [10.32.05]

24 BY MR. KOPPE:

25 Q. All right. Mr. Witness, I'll be asking you another 40 minutes

1 or so, some more questions.

2 Before the break, we were speaking about So Phim. I jogged your
3 memory regarding So Phim. Before the break, I also read you part
4 of Sem Hourn's testimony, connecting So Phim with Koy Thuon in
5 relation to the attempted coup d'etat.

6 You testified earlier that Koy Thuon doesn't really mean anything
7 to you, but let me try through testimony from someone else to see
8 if I can somehow jog your memory in this respect.

9 I'll be referring now, Mr. President, to E3/5686. That is DC-Cam
10 testimony from a witness whom I shall refer to as 2-TCW-1032. He
11 is a combatant of Brigade 1. English, ERN 00874668; Khmer,
12 00020553; French, 00904123.

13 Question: "It happened in the regime but I did not know the exact
14 year, I have heard that Ta Oeun started the rebellion?"

15 And then this combatant answers:

16 "Oh, he cooperated with Thuch's clique."

17 "What was Thuch in charge of?"

18 "He was in charge of a ministry."

19 "What plan did Ta Oeun and Thuch organize?"

20 And then the witness answers:

21 "They were planning a rebellion. I saw some people holding
22 cannons and rifles, however, later they arrested the clique
23 members in battalions and the regiment."

24 Thuch in charge of a ministry, is that something that helps you
25 remember this person?

1 MR. SOUY SAO:

2 A. I cannot recall it.

3 [10.35.10]

4 Q. No problem, Mr. Witness. One final attempt differently this
5 time.

6 I'm now referring to E3/509, Mr. President, that is a WRI of a
7 Division 310 combatant. It's English, ERN 00282217; Khmer,
8 00270159; French, 00285597. And this combatant talks about the
9 coup d'etat, talks about combatants of Battalion 306, that they
10 would open fire and attack the radio station at 3 a.m. in the
11 night.

12 He has given quite some other details as well, but then he says:

13 "That night suddenly Ta Oeun, Ta Sinuon, the former Battalion 306
14 Commander, along with Oeun who was at the Ministry of Commerce at
15 the time." End of quote.

16 Do you know, Mr. Witness, if Oeun, during the preparations of
17 this coup d'etat, was working together with people from the
18 Ministry of Commerce?

19 [10.36.57]

20 A. I <cannot recall it.>

21 Q. Did you know, yourself, anyone who worked at the Ministry of
22 Commerce and who was originally from the North Zone?

23 A. I cannot recall it.

24 Q. That's no problem, Mr. Witness. Let me move away from Koy
25 Thuon and other leaders.

30

1 Let me go back to your specific role. You talked about truckloads
2 of weapons that were supposed to be transported into Phnom Penh;
3 they were going to be used for the attack.

4 Sen Hoeurn -- here he is again -- gave testimony in this
5 courtroom about him transporting weapons to Kampong Cham to a
6 person called Tol, but he gave specific details as the type of
7 weapons that were used. And he talked -- and I'm referring
8 referring, Mr. President, to his testimony on the 22nd of June
9 2015 at around 15.36.

10 Question: "And what kind of weapons did you transport to Kampong
11 Cham?"

12 "There were different types of weapons such as M79, AK rifles --"
13 and then it says, "-- and Peking".

14 My question, do you recall what weapons you were transporting in
15 those two trucks? Were they also M79s and AK rifles?

16 [10.39.02]

17 A. I had my own AK rifle. I was equipped with such a rifle since
18 the beginning.

19 Q. I understand, but you gave testimony to DC-Cam about two
20 truckloads full of weapons that were going to be used for the
21 attack on Phnom Penh. What weapons -- what kind of weapons were
22 in these trucks? Were these also M79s and AK-47 rifles?

23 A. There were <12.7, 49> and <DK (phonetic)> rifles.

24 MR. KOPPE:

25 Would the interpreter be so kind to repeat that because I didn't

31

1 hear it well.

2 Q. Let me ask it again. It didn't get through well in my
3 translation. Mr. Witness, what weapons were you were transporting
4 in those two trucks that were going to be used for the coup
5 d'etat?

6 [10.40.33]

7 MR. SUOY SAO:

8 A. <12.7, 49> weapons.

9 Q. I'm not sure which kind of weapons they are, but let me see if
10 I can help you -- or can help myself rather a bit.

11 Mr. Witness, in your own testimony, you talked about ammunition
12 and bullets, that is, on English, ERN 00324171; Khmer, 00087821;
13 and French, 00324209; you talked about bullets and ammunitions
14 from China that were used by Oeun for the rebellion. Is that what
15 you meant, weapons from China?

16 A. That is true, but I cannot recall the specific types of them.

17 Q. And the weapons that you transported in those two trucks, were
18 these Chinese weapons or were these other sorts of weapons?

19 A. I do not know either, which country those weapons were
20 transported from.

21 [10.42.22]

22 Q. Do you recall how many weapons they were in those two trucks?

23 A. I do not know about the number of the weapons transporting in
24 the vehicles.

25 Q. Now, let me ask you something differently. At various

1 occasions in your testimony, and so do all the others, you talk
2 about the plan for the attack, plan for the coup d'etat, was
3 "compromised".

4 Do you know why the plan was compromised, what happened? Have you
5 ever found out why the plans of Oeun and others didn't succeed?

6 A. Until he was arrested, we learnt about that; about the attack.

7 Q. I understand he was arrested and so were quite a number of
8 other leaders, but how did Pol Pot, the government, or anyone
9 else find out about these plans so that they could prevent the
10 coup d'etat from happening; did you hear anything about this?

11 [10.44.17]

12 A. I have never heard of it.

13 Q. You were just being confronted with the fact that the plans
14 were never effectuated, that's it; correct?

15 A. That is correct.

16 Q. Now, let me turn to what happened afterwards, Mr. Witness. You
17 said, in your statement, that ordinary combatants were not
18 arrested, but only the leaders were arrested. Is that correct,
19 did you say that and if yes, how did you know that?

20 A. Those combatants were not arrested.

21 Q. Now, we -- we know that you were not arrested, but how did you
22 know that the other hundred combatants that were also in that
23 meeting were also not arrested; can you tell us; how did you
24 know?

25 A. There were no arrests of my combatants in the unit.

1 Q. What happened after Oeun was arrested; where did you and your
2 fellow combatants go to?

3 [10.46.03]

4 A. Some of them <were sent> to Kab Srov farming the field.

5 Q. Do you know if other members of Division 310 were requested or
6 instructed to go to Kampong Chhnang Airfield?

7 A. I do not know about that.

8 Q. Do you know if combatants from Division 310 were sent to Prey
9 Sar to farm rice?

10 A. I do not know either.

11 [10.47.00]

12 Q. Let me -- let me discuss a document with you, Mr. Witness,
13 that you do not know yourself. I will not give it to you, but
14 just ask a question about it.

15 It's document E3/849, Mr. President. These are joint statistics
16 of the Revolutionary Armed Forces from the general staff. It's a
17 document or the -- the data are gathered, it says, on the 7th of
18 April 1977; English, ERN 00183956; French, 00334995; Khmer,
19 00052319.

20 Mr. Witness, these are, as I said, statistics. Division 310 is
21 also mentioned and it says that on the 7th of April '77 -- so
22 that is roughly over one month and a half after Oeun's arrest --
23 that Division 310 consisted of 6,096 combatants and then it says,
24 "Including 1,127 forces in Kampong Chhnang."

25 Do you recall that a few months or sometime after Oeun's arrest

34

1 about one-sixth of Division 310 was in Kampong Chhnang Airfield?

2 A. I do not know about that.

3 Q. Do you recall after Oeun's arrest, whether confessions of Oeun
4 and others from Division 310 were played out during meetings of
5 310 combatants?

6 A. I do not know.

7 [10.50.20]

8 Q. One -- one or two final questions, Mr. Witness. You said,
9 "ordinary combatants were not arrested, only the leaders", how is
10 it that you know that only the leaders were arrested? Why did you
11 give this testimony to DC-Cam? We talked about the ordinary
12 combatants, but now I'm talking about the leaders; how did you
13 know that it was only the leaders that were arrested?

14 A. Because combatants remained living back then.

15 Q. Do you know how many leaders were arrested?

16 A. I do not know. I was simply a combatant. I do not know how
17 many leaders had been arrested.

18 [10.51.42]

19 Q. And then my very last question; Mr. Witness, this is unrelated
20 to your earlier testimony. On the very last page of your
21 testimony for DC-Cam, E3/7535; on English, ERN 00324190; Khmer,
22 00087845; French, 00324233; you say the following -- you're asked
23 questions about this trial and about this tribunal -- it says,
24 "Do you think the trial will bring any benefit to you as well as
25 our society as a whole?" And then you say, "The trial will bring

35

1 benefit to our country?" And then it says -- the question is how
2 and then you say, and I quote, "I mean only Hun Sen's cliques
3 have taken all the lost property in the Pol Pot regime." End of
4 quote.

5 What did you mean when you said that to the DC-Cam interviewer?

6 MR. PRESIDENT:

7 You have the floor now, Deputy Co-Prosecutor.

8 MR. LYSAK:

9 Thank you, Mr. President. I -- I don't see the relevance of this
10 question to the scope of this proceeding. The witness' views on
11 the benefits of this trial or the -- the current government, this
12 has nothing to do with what we're here trying.

13 MR. KOPPE:

14 That is speculating as to the reasons for this answer; I don't
15 know.

16 JUDGE FENZ:

17 But -- but then explain what the relevance for -- within this
18 trial is because that's the objection.

19 [10.53.38]

20 MR. KOPPE:

21 My -- my only question -- let me rephrase it. My only question is
22 -- so forget everything else -- what did you mean when you said,
23 "I'm -- only Hun Sen's cliques have taken all the lost property
24 in the Pol Pot regime"? What did you mean when you said that?

25 JUDGE FENZ:

36

1 But -- but again, the question was: Why is this relevant for this
2 trial and we are waiting for your explanation for the relevance
3 of the question because there is an objection.

4 MR. KOPPE:

5 Well, I'm not sure because I don't know why he said it, so I
6 don't know if it -- if he means what happened between '75 and '79
7 or whether he talks about temporary issues; I -- I just want to
8 have an explanation about that one sentence. So, I cannot
9 speculate as to whether what he said is relevant for the
10 jurisdictional period or whether it's irrelevant and it has
11 something to do about the period now.

12 [10.54.42]

13 JUDGE FENZ:

14 Well, then the obvious question is: Did you refer, when you said,
15 that to the period '75 to '79 or to another period? Then we know
16 if it can possibly be relevant.

17 MR. KOPPE:

18 Well, that's -- I -- I asked the question very openly: What did
19 you mean with it? But I'm happy to rephrase it in the suggested
20 manner.

21 BY MR. KOPPE:

22 Q. Mr. Witness, when you said, "Hun Sen's cliques have taken all
23 the lost property in the Pol Pot regime," did you refer to the
24 period '75-'79 or are you referring--

25 MR. PRESIDENT:

1 Lead Co-Lawyer for civil parties, you may now proceed.

2 [10.55.24]

3 MR. KOPPE:

4 I -- I appreciate if you don't interrupt me, Mr. President.

5 MS. GUIRAUD:

6 I apologize for interrupting our colleague; it's simply that I do
7 not see this sentence in the French version of the DC-Cam
8 document, so I don't know if we could, maybe, check this in the
9 Khmer because in the French translation, we do not see the
10 sentence.

11 MR. KOPPE:

12 It must be a French conspiracy then. I -- I can only say what I
13 have in the English.

14 [10.55.58]

15 JUDGE FENZ:

16 Well, somebody check the Khmer.

17 MS. GUISSSE:

18 And I believe that it's the word "clique" that does not appear in
19 French, however, in French, on page 43, ERN 00324233, it is
20 written, "The purpose is that they will no longer be Pol Pot's
21 team, but only Samdech Hun Sen's team," but the word "clique"
22 does not appear in the sentence indeed.

23 MS. GUIRAUD:

24 It is the <whole> part regarding the confiscated property which
25 does not appear in the French version and does appear in the

38

1 English version, so it is that specific sentence which our
2 colleague wanted the witness to react to that does not exist in
3 the French version. Maybe it exists in the Khmer version, but I
4 don't know.

5 MR. KOPPE:

6 I -- I think that's the solution, if I ask my national colleague
7 to -- to see if he can find the Khmer equivalent of that
8 particular sentence.

9 MR. PRESIDENT:

10 You have the floor now, National Lead Co-Lawyer for civil
11 parties.

12 [10.57.29]

13 MR. PICH ANG:

14 Good morning, Mr. President. I'm now reading the Khmer version in
15 relation to the quoted part of the statement.

16 "How could the interests be obtained because the properties <of
17 Pol Pot> have been lost? <So there were only interests for Hun
18 Sen.>" That -- the word "interest" here refers to the proceedings
19 in the current stage. It is not about the properties lost.

20 MR. PRESIDENT:

21 <Counsel for Mr. Nuon Chea, please resume your questioning.>

22 [10.58.08]

23 MR. KOPPE:

24 Well, I -- I don't--

25 MR. PRESIDENT:

39

1 You may now have the floor, Counsel for Mr. Nuon Chea.

2 BY MR. KOPPE:

3 I'm -- I'm not sure if -- if the intervention of the civil party
4 lawyer is conclusive. Sorry, I -- I maintain my question.

5 Q. Mr. Witness, did you speak about Hun Sen taking property --
6 lost property in the Pol Pot regime?

7 MR. SUOY SAO:

8 A. I cannot recall. I do not know.

9 Q. It's a -- a bit sensitive and I -- I will not trouble you
10 further, Mr. Witness. Thank you very much.

11 MR. PRESIDENT:

12 And now, the floor is given to the Co-Prosecutors. Lawyer for
13 civil party, you may proceed first.

14 [10.59.36]

15 MR. PICH ANG:

16 Good morning, Mr. President. Because it's not clear as what Marie
17 -- Marie Guiraud mentioned. The word in Khmer is "properties <of>
18 Pol Pot <> had been lost," so it is not clear and <in French,> it
19 also says that the properties <of Pol Pot> had been seized by
20 other groups. So perhaps, that may have been interpreted wrongly,
21 based on the exact words from the Khmer document. In fact, the
22 word <"properties"> in Khmer are not clear enough to comprehend.

23 MR. PRESIDENT:

24 You may have the floor, Counsel for Mr. Nuon Chea.

25 [11.00.31]

1 MR. KOPPE:

2 Yes, Prime Minister Hun Sen will be happy for your intervention,
3 but I withdraw the question now, Mr. -- Mr. President.

4 MS. GUIRAUD:

5 Mr. President, a comment, if you will. The comment of my
6 colleague is absolutely unacceptable. To believe and to <attempt
7 to convince> others <to> believe that <this statement, which is>
8 simply, purely a <technical matter, regarding an existing>
9 translation problem, is simply an attempt to sabotage and attack
10 others<, is, as my colleague knows, unacceptable>. It's a problem
11 of translation. It's a technical <problem>. We want to know what
12 the <translation was of a document originally in> Khmer. <Do not
13 start down this path, Counselor, because it's really a show of
14 poor faith.>

15 MR. PRESIDENT:

16 I'd like now to hand the floor to the Co-Prosecutors to put
17 questions to this witness. You have the floor.

18 QUESTIONING BY MR. LYSAK:

19 Thank you, Mr. President.

20 Mr. Witness, I'll be asking you questions on behalf of the
21 Co-Prosecutors. I want to start by showing you a document that is
22 part of -- included as part of your DC-Cam interview, E3/7535. It
23 is a document that is only in Khmer. The ERNs are 00087683
24 through 690 and it is a biography.

25 With your leave, Mr. President, may I provide this to the

41

1 witness?

2 [11.02.24]

3 MR. PRESIDENT:

4 Court Officer, please hand the document to the witness.

5 BY MR. LYSAK:

6 Q. And now, Mr. Witness, if you could look at this document and
7 tell me if you recognize whose biography this is and you'll find
8 some personal details on -- on the second page as well as, for
9 example, in section 2 on the fifth page, you'll find information
10 about the -- the parent -- the parents.

11 Can you look at this and tell us --tell us whether this is your
12 biography that you completed during the DK -- the Khmer Rouge
13 regime?

14 (Short pause)

15 [11.04.13]

16 MR. PRESIDENT:

17 Witness, do you find the relevant page and can you read it?

18 MR. SUOY SAO:

19 It is not clear to me.

20 MR. PRESIDENT:

21 Court Officer, please read the relevant pages to the witness.

22 MR. LYSAK:

23 For the record, the biographical information of the person who
24 completed this biography is on Khmer 0087684 (sic) at section 1
25 of the biography and what also may help the -- the witness is

1 page 00087687, section 2, in which the parents are listed and the
2 names match that which the witness provided in his DC-Cam
3 interview. So, those two pages should be most helpful to the
4 witness.

5 (Short pause)

6 [11.06.28]

7 MR. SUOY SAO:

8 The biography is correct.

9 BY MR. LYSAK:

10 Q. And do I understand by that that this was your biography; is
11 that right?

12 A. Yes, this is my biography.

13 Q. Do you remember when -- when it was during the Khmer Rouge
14 regime that you completed this biography; do you remember the
15 year or can you tell us whether this was done in the early part
16 of the regime, 1975-'76, or the later part of the regime,
17 1977-'78?

18 (Short pause)

19 [11.07.45]

20 A. I do not recall the year.

21 Q. I'd like to direct you to the third page of the document,
22 Khmer 87685 (sic), and it is the answer to a question in section
23 1; question 12, as to when you joined the revolution. If you look
24 at your biography, it indicates that you joined the revolution on
25 1 January 1975.

1 Earlier today, you indicated you joined the revolution in 1973;
2 in your DC-Cam interview, you said 1974. Does this document
3 refresh your recollection; was it not until January 1, 1975, that
4 you joined the revolution and became a soldier in the Khmer Rouge
5 army?

6 A. In fact, I made my previous statement that it was in 1972.

7 Q. Yes, but what I'm asking you, Mr. Witness: When you made --
8 gave your interview to DC-Cam in 2005, it does not appear you
9 were shown the biography you prepared during the regime. In this
10 biography, you state you joined the revolution on 1 January 1975.
11 So I am asking you whether that is correct, whether that is the
12 correct date on which you joined the revolution and became a
13 soldier.

14 (Short pause)

15 [11.10.16]

16 A. Yes, that is correct.

17 Q. And how -- how soon after joining the Khmer Rouge army on
18 January 1, 1975, how soon after that were you sent into combat
19 against the Lon Nol forces?

20 (Short pause)

21 [11.11.02]

22 A. It was since 1972.

23 Q. I want to make sure I understand what you're saying, Mr.
24 Witness. Are you saying that you were engaged in combat as a --
25 in the Khmer Rouge army in 1972, three years before you joined

1 the revolution?

2 A. I was sent in 1972.

3 Q. Sent where?

4 A. I was sent to attack Phnom Penh.

5 Q. Was it 1972 or 1975, that you were sent to attack Phnom Penh?

6 [11.12.35]

7 MR. PRESIDENT:

8 Witness, please observe the microphone.

9 MR. SUOY SAO:

10 A. I was sent in 1972 to join the fight in Phnom Penh.

11 BY MR. LYSAK:

12 Q. All right. Let me ask you a different question, Mr. Witness.

13 Did -- did you receive any combat training before you were sent
14 to fight against the Lon Nol army?

15 MR. SUOY SAO:

16 A. I did not receive any training. Once I arrived, I was given a
17 rifle and I joined the attack.

18 Q. And did you join the Khmer Rouge army voluntarily or were you
19 forced to join?

20 A. Of course, I was forced; if not, what's the purpose of
21 joining?

22 [11.13.52]

23 Q. Who -- who was it that forced you to join the Khmer Rouge
24 army?

25 A. It was people from the commune -- from the commune's office.

1 Q. Now one last question using the biography. If you could look
2 at the cover page, the very first page of your biography from the
3 Democratic Kampuchea period, and on that cover page, it indicates
4 the unit that you were in; specifically, the first page states
5 that you were a combatant in Division 310, Regiment 11, Battalion
6 112, and Company 1. Does that refresh your recollection that you
7 were in Company 1 of Battalion 11 -- 112 of Division 310?

8 A. Yes, that is correct.

9 Q. How many other soldiers were with you in Company 1 of
10 Battalion 112; how -- how many in your company?

11 [11.15.39]

12 A. There were 100.

13 Q. And -- and who was the chief or commander of your company?

14 A. I cannot recall the name. The chief was arrested and taken
15 away.

16 Q. When was the chief arrested, when in relation to the time that
17 Ta Oeun -- Ta Oeun was arrested? When -- can you tell us
18 approximately, when it was that the chief of your company was
19 arrested?

20 A. It was during the time of the fighting.

21 Q. Yes. Are -- are you able to tell us whether your chief -- the
22 chief of your company was arrested before Ta Oeun, or after Ta
23 Oeun, the division secretary, was arrested? When -- when did --
24 when did it take place that your--

25 A. It was probably during that time; that is, during the -- the

1 events that involved the division.

2 Q. And what about your battalion commander, do you remember the
3 name of your battalion commander, Battalion 112?

4 A. I forget the name.

5 Q. What about the commander of your regiment, do you remember
6 what his name was?

7 [11.18.12]

8 A. I also forget the name. I forget about all the names.

9 Q. What -- what about your fellow combatants; the people you
10 fought with, were in your company, do you remember the names of
11 any of your fellow soldiers or combatants that were in Company 1
12 with you?

13 A. We separated from one another and some of them died.

14 Q. My question was: Do you remember any of the names -- any of
15 the names of the people, the combatants who were your fellow
16 combatants in Company 1?

17 A. I forget all of their names; some survived and became very old
18 and passed away.

19 [11.19.24]

20 Q. Do you remember whether any of the -- any of your fellow
21 combatants in Company 1 were arrested and disappeared during the
22 regime?

23 A. No, I cannot recall that.

24 Q. The reason I ask you that, Mr. Witness, is, in this case, the
25 Office of Co-Investigating Judges has done a list of the people

47

1 -- prisoners who were sent to S-21. Your division was one of the
2 most heavily purged organizations in all of Democratic Kampuchea.
3 In total, the OCIJ S-21 list identifies 1,135 people from your
4 Division, Division 310, who were arrested and sent to S-21, the
5 majority of whom were ordinary combatants. Were you not aware
6 that hundreds of your fellow combatants from Division 310, were
7 arrested and disappeared during the regime?

8 A. I did not know much about the disappearance.

9 Q. Okay, we'll come back later to some of the S-21 records of the
10 arrests of people from your division.

11 And I want to talk now about the time that you were stationed in
12 Phnom Penh with Division 310. When you were stationed there in
13 Tuol Kork, as you've said, were you allowed to freely move about
14 the city or did you need a travel pass if you left -- left your
15 base area to do any travelling around the city?

16 [11.22.06]

17 A. I did not go anywhere. I lived and stayed at where I was
18 stationed.

19 Q. And how many other division cadres were at the same location
20 as you in Tuol Kork?

21 A. I cannot recall the total number.

22 Q. Can you give us an approximation; was it less than 100 people
23 or more than 100 people?

24 A. In Phnom Penh, the total number was less than 100.

25 Q. And during the time you were in Phnom Penh with Division 310,

48

1 were you invited to attend division meetings, regiment meetings,
2 battalion meetings; were there any regular meetings that you
3 participated in?

4 [11.23.38]

5 A. I was a combatant. I did not attend many meetings.

6 Q. You -- you repeatedly stated today, in response to questions,
7 that you were pretty young, that you were just an ordinary
8 combatant; you've just indicated you didn't attend many meetings.
9 Is it correct then that you did not have much information, as an
10 ordinary combatant, on -- on the activities or plans of the top
11 leaders of your division?

12 (Short pause)

13 [11.25.05]

14 Q. Mr. Witness, my question is: As an ordinary combatant, did you
15 know what the leaders of your division were doing; did you have
16 access to information on their plans and activities?

17 A. I did not know much about that.

18 Q. How often would you see Division Secretary Oeun and where was
19 he located in Phnom Penh?

20 A. I rarely saw him.

21 Q. When you say "rarely," how many times during the regime; that
22 is, from April 1975, until the time of Oeun's arrest in February
23 1977, how many times did you see him in person?

24 A. I rarely saw him because I was stationed in Tuol Kork while he
25 was in Phnom Penh.

1 [11.26.31]

2 Q. My -- my question is: You say rarely; are you able to give us
3 any the indication of the number of times you saw him; was it
4 more or less than 10, more or less than five; was it just a
5 couple of times, one or two; can you give us some indication of
6 how many times you personally saw Division Secretary Oeun?

7 A. I rarely saw him; as I said, I was an ordinary combatant and I
8 did not have many -- much chance to see the divisional commander.

9 Q. Can -- can you describe his appearance; what -- what did Oeun
10 look like?

11 [11.27.29]

12 A. I cannot describe that since I rarely saw him.

13 Q. I'm going to come back to this in detail after the lunch
14 break, but I want to turn now to this meeting that is mentioned
15 in your DC-Cam interview that Defence Counsel spent some time
16 asking you about. And when he asked you -- first asked you about
17 this purported meeting with Division Secretary Oeun, you said, I
18 quote, "I cannot recall because I was at the back"; what -- what
19 did you mean when you said that you were at the back?

20 A. Because I was far away from him.

21 Q. How -- how far away were you from him and where did -- where
22 was it that this meeting took place?

23 A. It was in Phnom Penh, but I, myself, was based further to the
24 west of Tuol Kork area.

25 Q. How -- how is it that you went from your base in Tuol Kork to

50

1 the location of this meeting in Phnom Penh?

2 A. Of course on foot.

3 Q. And how many other people were travelling with you on foot
4 through Phnom Penh on your way to this meeting?

5 A. I cannot recall it clearly; however, there were probably two
6 or three of us.

7 [11.29.50]

8 Q. And were you hiding while you were walking through Phnom Penh
9 to this meeting or were you walking openly on the streets?

10 A. I was walking openly along the road.

11 Q. And how did you know where to go, where this -- where it was
12 that this supposed secret meeting was to take place?

13 A. I left Tuol Kork, then we walked toward Chrouy Changva and
14 then we turn south.

15 Q. Yes, and before we -- last question before the break: Who --
16 who told you where to go; how did you know where it was that you
17 and the people you were travelling with were supposed to go?

18 [11.31.15]

19 A. I did not know the detail about the meeting.

20 MR. LYSAK:

21 Mr. President, I can break at this time, if it's convenient.

22 MR. PRESIDENT:

23 Thank you, Deputy Co-Prosecutor.

24 It is now convenient for a lunch break. We take a break now and
25 resumed at 1.30 this afternoon to continue our proceedings.

51

1 Court Officer, please assist the witness at the waiting room
2 reserved for witnesses and experts during the break time and
3 invite him back into the courtroom this afternoon at 1.30.
4 Security personnel, you are instructed to take Khieu Samphan to
5 the waiting -- waiting room downstairs and have him returned to
6 attend the proceedings this afternoon before 1.30.

7 The Court stands in recess.

8 (Court recesses from 1132H to 1329H)

9 MR. PRESIDENT:

10 Please be seated. The Court is now in session and the floor is
11 given to the Co-Prosecutor to resume the questioning. You may now
12 proceed.

13 BY MR. LYSAK:

14 Thank you, Mr. President. Good afternoon, Mr. Witness.

15 Q. We were talking about the meeting that you have described in
16 your DC-Cam interview, the meeting at which you believe there was
17 discussion of a plan to attack Phnom Penh. Where was it that this
18 meeting took place? Can you describe where the location was and
19 whether the meeting was in a building or whether it was held
20 outside?

21 [13.31.51]

22 MR. SUOY SAO:

23 A. I do not know.

24 Q. Do you remember whether the meeting was held inside or was it
25 a meeting held outside?

1 A. I do not know, as I said.

2 Q. I believe you testified earlier that there were about 100
3 people at this meeting; is that correct?

4 A. How could I tell you if I do not know?

5 Q. You said that you did not recall much about the meeting
6 because you were far away at the back. How far away were you from
7 the speaker and were you able to hear what was being said, or
8 were you too far away to understand what was being said at the
9 meeting?

10 A. I do not know.

11 Q. Mr. Witness, do you remember, as you sit here, whether you
12 could hear anything that was said at this meeting or whether you
13 were too far away to hear what was being discussed?

14 A. I did not attend the meeting.

15 [13.34.10]

16 JUDGE FENZ:

17 Sorry. Perhaps there is an interpretation issue. I actually
18 noticed for a while that the word "at the back" apparently is
19 used when he means "I wasn't at the front" but somewhere -- yes.
20 So perhaps it's worth clarifying this interpretation.

21 BY MR. LYSAK:

22 Q. Yes. As the judge has indicated, this morning you said you
23 were at the back during this meeting. Were you actually at the
24 meeting at the back of the room or were you not at the meeting at
25 all?

1 MR. SUOY SAO:

2 A. I did not attend the meeting.

3 Q. I will come back to that a little later. I want to ask you now
4 about another thing that was in your DC-Cam interview that the
5 Defence Counsel asked you today, which was your involvement in
6 transporting a truck of weapons. When was it that you transported
7 this truck of weapons? Was it before the meeting with Ta Oeun or
8 was it after that meeting? When was it that you transported this
9 truck of weapons?

10 [13.36.00]

11 A. I myself did not transport the weapons. I was simply an
12 ordinary combatant.

13 MR. KOPPE:

14 No objection, Mr. President. A request to have the doors closed.
15 I note something very peculiar in the answers of this witness and
16 I would like to be able to request the Chamber as to whether the
17 witness has any contacts. I think WESU should be involved. So I
18 think it's maybe a wise idea to close the doors.

19 JUDGE FENZ:

20 Sorry. Are you asking for a closed session, because we are
21 hearing closed doors?

22 MR. KOPPE:

23 Yes; yes. Yes. Yes.

24 JUDGE FENZ:

25 And the reason because as you know, we need a reason to go into

1 closed session? Or can you only give us the reason in a closed
2 session?

3 [13.37.06]

4 MR. KOPPE:

5 Well, the sudden change in the nature of his answers made me
6 stand up and request for a brief period to have the doors closed
7 as to see if something happened during lunch with this witness.

8 MR. LYSAK:

9 I don't understand why we need to go in closed session. I have no
10 objection if the Bench wishes to ask him any questions at this
11 time as to whether he had any contact at lunchtime but I don't
12 understand why we need to go in closed session.

13 MR. KOPPE:

14 Well, if we are going to ask that question then his inclination
15 to answer that in an open session might be smaller than his
16 inclination to answer that in a closed session.

17 (Judges deliberate)

18 [13.39.32]

19 MR. PRESIDENT:

20 You have the floor now, Judge Fenz.

21 JUDGE FENZ:

22 The Chamber rejects your request to go into closed session. The
23 mere fact that the witness has changed his testimony isn't
24 sufficient reason for this.

25 And furthermore, the additional allegation or indication that

1 something might have been said while lunch has been said now in
2 open session so that defeats the purpose of a closed session.

3 MR. PRESIDENT:

4 You may now resume your questioning, Mr. Co-Prosecutor.

5 BY MR. LYSAK:

6 Q. Mr. Witness, you described to DC-Cam some information about a
7 truck of weapons that was transported. If you did not transport
8 that truck of weapons who did and how did you hear about it?

9 [13.40.57]

10 MR. SOUY SAO:

11 A. I heard from other soldiers about that issue.

12 Q. And do you know where the weapons were picked up and where
13 they were transported to? Do you know any details such as that?

14 A. I do not know any details. That's why I said I do not know and
15 I cannot find the answer for you.

16 Q. And the meeting that is described in your DC-Cam interview at
17 which Division Secretary Oeun purportedly talked about a plan of
18 a coup or to attack Phnom Penh, if you weren't present at that
19 meeting how did you hear about it? From whom did you hear about
20 this supposed meeting?

21 A. I learned about the attacks but I did not know the plan, the
22 exact plan and the date when the attack would happen.

23 [13.42.28]

24 Q. Do you remember how it is you learned about this or who you
25 heard this information from?

1 A. I learned from my unit.

2 Q. Who in your unit told you about this?

3 A. They have all passed away.

4 Q. I understand. Do you remember the name or names of the persons
5 who told you about this meeting?

6 A. I am not able to recall their name -- their name or names.

7 Q. And do you remember, approximately, when it was that this
8 meeting took place? I'm not asking you for a month or year but if
9 you could tell us when the meeting took place in relation to the
10 time that Ta Oeun was arrested? Was Oeun arrested a few days
11 after this meeting? Was it weeks after the meeting or was it
12 months after the meeting that Ta Oeun was arrested?

13 A. I do not know either about this issue.

14 [13.44.33]

15 Q. Defence Counsel asked you this morning whether you remembered
16 a meeting at which the tape-recorded confession of Division
17 Secretary Oeun was played. And I want to see if I can refresh
18 your recollection on that by reading to you an excerpt from your
19 DC-Cam interview.

20 Your Honours, this is document E3/7535; Khmer, ERN 00087827;
21 English, 00324176; French, 00324217. And this is what you've
22 indicated in your interview with DC-Cam.

23 Question: "Did you know where Ta Oeun was transferred to?"

24 Answer: "Later on we were called to a meeting and got informed
25 about that. They said that your boss was accused as a traitor and

1 arrested."

2 Question: "Who called for that meeting?"

3 Answer: "I had no clue about his name. His eyes were so red and
4 fierce."

5 Question: "What did he say?"

6 Answer: "He said, 'You attempted to attack Phnom Penh. Now, your
7 boss was arrested.' Then he played a recorded cassette. He wanted
8 us to hear Ta Oeun's voice."

9 Question: "What did Ta Oeun say?"

10 Answer: "He said he had betrayed Pol Pot many years ago since the
11 coups d'etats in 1970. I could not remember the entire cassette."

12 End of quote.

13 Mr. Witness, does that refresh your memory? Do you remember a
14 meeting after Oeun's arrest led by a man who you described as
15 having fierce and red eyes at which they played a tape recording
16 of Oeun's confession? Do you remember this?

17 A. I do not remember it. I cannot recall it.

18 [13.47.29]

19 Q. Mr. Witness, is it possible that the information you remember
20 about a supposed plot involving Oeun, involving Koy Thuon,
21 Chakrey; is it possible that this information came from a meeting
22 at which the division, the new heads of the division played a
23 tape of Oeun's confession? Is that where you may have obtained
24 some of your information about these events?

25 A. I have responded all -- to all the questions. So what else can

1 I say?

2 Q. Well, Mr. Witness, we are trying to understand why you said
3 some -- made some of your statements to DC-Cam about a supposed
4 plot to attack Phnom Penh.

5 And my question is a simple one. Is it possible that some of that
6 information that you conveyed to DC-Cam came from what you were
7 told by the people who took over the division and people who
8 played a recording of Oeun's confession?

9 A. I do not know.

10 [13.49.23]

11 Q. Mr. Witness, I want to ask you about a few documents that are
12 pertinent to these issues.

13 First, Your Honours, I would like to read an excerpt to the
14 witness from document E3/810, E3/810. These are the minutes of 19
15 September 1976, division secretary's meeting in which Division
16 310 secretary, Oeun, reported to Son Sen and others at the
17 meeting at what was going on in his division. The specific ERNs,
18 Khmer, 00052393 to 394; English, 00195344 through 45; French,
19 00195359 to 360.

20 Mr. Witness, this is a document reporting -- recording a report
21 made by your division secretary in September 1976, to Son Sen and
22 the other division commanders. In paragraph four of Oeun's report
23 in this document he discussed the health situation in your
24 division and reported as follows, quote: "Two thousand, six
25 hundred brothers are sick, of whom 400 are seriously ill and

1 cannot work." Continuing further: "This month seven persons in
2 the special unit and the artillery unit died. The causes;
3 mosquito bites, drinking dirty water and living in malarial areas
4 like Kab Srov, Poun Phnom." And in the next paragraph Oeun
5 reported, "All food supplies will have been eaten during this
6 September." End of quote.

7 Mr. Witness, I ask you about this excerpt because you have
8 indicated that your unit was at some point sent for tempering to
9 the Kab Srov site.

10 [13.52.11]

11 My question, this -- it was in September 1976, that Oeun told his
12 superiors that Kab Srov was a malaria area. When was it that your
13 unit was transferred to Kab Srov? Was it before September 19,
14 1976, or after? Do you remember when it is that you were
15 transferred to this area, Kab Srov?

16 A. After the commander of the division had been arrested.

17 Q. And the other part of this report I wanted to ask you about,
18 in paragraph six of the same report that Secretary Oeun made to
19 Son Sen and others at the 19 September '76 meeting, he said the
20 following:

21 "After re-education there has been strong internal struggle. Part
22 of the Party members and cadres are not yet loyal and are looking
23 to betray the Party, unsatisfied and unhappy with the four-year
24 plan of the Party." End of quote.

25 [13.53.51]

60

1 The reason I ask you about this, Mr. Witness, your DC-Cam
2 interview, some of the statements read by the Defence Counsel
3 suggest that Oeun was involved in plotting a coup against the
4 Party. Yet, in this document, Oeun is openly telling Son Sen that
5 there are cadres in his division that are unhappy with the Party
6 policies and looking to betray the Party.

7 Do you have any reaction to this? If Oeun was actually involved
8 in a secret plot against the Party do you -- why would he draw
9 the Party Centre's attention to his division by reporting that
10 there were cadres looking to betray the Party? Do you have any
11 reaction to this document and information?

12 MR. KOPPE:

13 I object.

14 MR. PRESIDENT:

15 You may now proceed, Counsel for Mr. Nuon Chea.

16 [13.55.05]

17 MR. KOPPE:

18 I object to this question. The witness cannot possibly say what
19 was in Oeun's mind during this meeting and, obviously, if Oeun
20 was involved in attempting a coups d'etats, he was not going to
21 tell Son Sen of all people that he was involved in this. So the
22 question doesn't make any sense whatsoever.

23 But besides this, he is asking for speculation. He doesn't know
24 what Oeun was thinking or saying during this meeting.

25 JUDGE FENZ:

61

1 Perhaps you can reformulate because the way it was phrased really
2 asked for speculation.

3 [13.55.46]

4 BY MR. LYSAK:

5 Let me rephrase, Your Honour.

6 Q. Here we have a document from mid-September 1976, in which your
7 division secretary reports to Son Sen that there are cadres in
8 the division unhappy with the Party's policies, who are looking
9 to betray the Party.

10 Do you remember whether after this in late '76 or early '77,
11 there was a representative from Son Sen's office, who was
12 assigned to monitor the Party to review biographies and to look
13 for traitors in the Party? Do you remember a period of time where
14 your division was reviewed and monitored by the General Staff?

15 MR. SUOY SAO:

16 A. I cannot recall it since at the time I was farming the rice at
17 Kab Srov.

18 Q. Let me ask you specifically about the name of the person from
19 the General Staff who had this assignment. Your Honours, there
20 are a number of documents that record representative Ren who has
21 testified in the first trial, documents from November 1976 and
22 March 1977, in which he is reporting on efforts to monitor the
23 division; that is, documents E3/1131 and E3/1161.

24 And in this trial, or in the first trial, he testified that he
25 had in fact been assigned to observe and monitor the internal

62

1 activities of division -- these divisions. You'll find that in --
2 on the 10th of January 2013 at 10.16 in the morning.

3 My question to you, Mr. Witness, do you remember a person named
4 Ren from the General Staff who came to monitor your division on
5 behalf of the General Staff and who met with all the units? Do
6 you remember this person?

7 [13.58.31]

8 A. No, I don't.

9 Q. Let me ask you about something else, Mr. Witness. We talked --
10 I asked you this morning about whether there were combatants,
11 many combatants in your division who were arrested and who
12 disappeared after Ta Oeun. I want to ask you about one specific
13 person.

14 Your Honours, with your leave, I'd like to provide to the witness
15 an S-21 -- a list. It's E3/9954 and the specific page that I will
16 refer the witness to is Khmer 01012060. Now, this is one of the
17 documents underlying the new OCIJ list. So with your leave, may I
18 provide E3/9954 to the witness?

19 [13.59.40]

20 MR. PRESIDENT:

21 Court officer, please bring the document to the witness.

22 BY MR. LYSAK:

23 Q. Now, I have marked the person -- I have marked the person
24 whose name I would like you to look at. It's -- he is number 34
25 on that page. Excuse me.

1 Name, Orn Chorn (phonetic), identified as a combatant of Company
2 1, Battalion 112, your company, your battalion. He entered S-21
3 on the 14th of July 1977, and was executed on the 16th of July
4 1977, as recorded in this document. He also appears as number
5 5009, 5009 in the OCIJ list.

6 My question to you, Mr. Witness, do you remember this person from
7 your company, Orn Chorn (phonetic) and, if so, what can you tell
8 us about him and his arrest?

9 [14.01.19]

10 MR. SUOY SAO:

11 A. I do not know this person.

12 Q. Do you remember any of the people in your company being
13 arrested and disappearing during the Khmer Rouge regime and
14 specifically in 1977?

15 A. Commanders of those < platoons > and companies had been
16 arrested. Only the combatants were not.

17 Q. Let me turn, try turning to a completely new subject, Mr.
18 Witness, and that is any contact you had with senior leaders of
19 the regime.

20 During the time you were based in Phnom Penh with Division 310,
21 did you see any of the leaders of the regime at meetings at
22 Olympic Stadium or elsewhere? And if so, can you tell the Court
23 about that?

24 [14.02.51]

25 A. I never attended any meetings held at the Olympic Stadium.

64

1 Q. Did you ever see Khieu Samphan during the years that you were
2 in Phnom Penh with Division 310?

3 A. I did not see that since I was at the outskirts of the city
4 and I did not live in the middle of the city at all.

5 Q. Well, let me ask you then about something you said in your
6 DC-Cam interview.

7 Your Honours, I am going to read first from E3/7535, Khmer, ERN
8 00087815 through 816; English, 00324166 through 67; French,
9 00324204 through 05. This is what you told DC-Cam in this
10 interview, Mr. Witness.

11 Question: "When they held a meeting at the stadium were you ever
12 called to celebrate the victory?"

13 Answer: "They celebrated the 7 January or 17 April victory at the
14 stadium."

15 Question: "Did you notice any top leaders attending that
16 ceremony?"

17 Answer: "Yes, Khieu Samphan."

18 [14.04.45]

19 And then continuing later in the interview on this tape, these
20 same pages after a discussion of whether the ceremony you
21 attended was before or after Oeun's arrest.

22 Question: "Had they held any meeting at the stadium before he" --
23 referring to Oeun -- "was arrested?"

24 Answer: "I was sent to greet the guests there."

25 Question: "Who did you have to greet?"

1 Answer: "Khieu Samphan."

2 Question: "What did Khieu Samphan do there? Did you come to that
3 meeting?"

4 Answer: "Yes, the meeting was at the school."

5 Question: "How many times did they hold meetings at the
6 stadium?"

7 Answer: "Three times."

8 Question: "Three times? How many times did you see Khieu
9 Samphan?"

10 Answer: "Twice." End of quote.

11 [14.05.44]

12 Does that refresh your memory, Mr. Witness? Did you see Khieu
13 Samphan at ceremonies at Olympic Stadium?

14 A. I was a soldier at a rear battlefield and I did not attend
15 that meeting.

16 Q. Well, you also indicated in your DC-Cam interview that during
17 a period of time you were in charge of guarding, standing guard
18 when foreign guests were being received. Did you -- did you do
19 that while you were in Phnom Penh?

20 A. Yes, I did stand guard.

21 Q. And when you were standing guard when foreign delegations or
22 guests were being received, who were the leaders that were -- the
23 Khmer Rouge leaders who were receiving those delegations?

24 [14.07.17]

25 A. I did not know. I was assigned to stand guard and that's what

1 I did.

2 Q. Well, let me read to you another excerpt from your DC-Cam
3 interview, sir, E3/7535, Khmer, ERN 00087820; English, 00324170;
4 French, 00324208 through 209.

5 Question: "Who were the Khmer Rouge top leaders in charge of
6 greeting those foreign guests?"

7 Answer: "I often saw Khieu Samphan." End of quote.

8 Did you see Khieu Samphan greeting foreign delegations, Mr.

9 Witness?

10 MR. PRESIDENT:

11 Witness, please respond to the question.

12 [14.08.47]

13 MR. SUOY SAO:

14 I did not know about that. I was the youngest soldier amongst my
15 group.

16 BY MR. LYSAK:

17 Q. But why did you tell DC-Cam that you saw Khieu Samphan often
18 if that wasn't the case, Mr. Witness?

19 MR. SUOY SAO:

20 A. I did not see him, so how could I say that I saw him?

21 JUDGE FENZ:

22 Excuse me just for interrupting. I normally don't do this, but I
23 think it calls for it.

24 Sir, when your DC-Cam statement was done, after it was finished,
25 did you read it?

67

1 MR. SUOY SAO:

2 I have read it.

3 JUDGE FENZ:

4 Did you find anything that was incorrect after you have read the
5 DC-Cam statement?

6 MR. SUOY SAO:

7 It is consistent.

8 [14.10.13]

9 JUDGE FENZ:

10 Well, the problem is that today you tell us -- you are telling us
11 different stories when it comes -- or stories that don't -- that
12 are different from your DC-Cam statement and while in the morning
13 you basically -- it was basically possible to refresh your
14 memory, now in the afternoon you say, "I didn't say that".
15 So can I sum up? When you made your DC-Cam statement; first of
16 all, did you tell the truth then?

17 MR. SUOY SAO:

18 I told everything. I told all the truth.

19 [14.10.54]

20 JUDGE FENZ:

21 I understand this is 10 years ago. So you told the truth and you
22 read the statement after you were finished; true?

23 MR. SUOY SAO:

24 Yes, that is correct.

25 JUDGE FENZ:

68

1 Everything was correct. You didn't have to correct anything?

2 MR. SUOY SAO:

3 I did not correct anything.

4 JUDGE FENZ:

5 Then you will have to explain, when you are asked, why -- if and
6 why statements you make today differ from you said 10 years ago.

7 Go ahead.

8 [14.11.51]

9 BY MR. LYSAK:

10 Thank you, Judge Fenz.

11 Q. Mr. Witness, I have read to you some very specific references
12 in your DC-Cam interview in which you said that you saw Khieu
13 Samphan both at Olympic stadium at meetings or ceremonies there
14 and when he was receiving foreign guests and you were working as
15 a guard. Did that happen or was the information you provided to
16 DC-Cam incorrect?

17 MR. SUOY SAO:

18 A. The statement is not that correct.

19 Q. So the parts of the DC-Cam interview in which you say that you
20 met or that you saw Khieu Samphan are incorrect; is that what you
21 are telling us?

22 [14.13.08]

23 A. Yes.

24 Q. And what about the parts of your DC-Cam interview in which you
25 describe being at a meeting with Ta Oeun, where a plot was

1 described? Is that correct or were you not actually at this
2 meeting?

3 A. I never attended any meeting with the divisional commander. I
4 was an ordinary combatant and I was not allowed to attend such a
5 meeting.

6 Q. Okay. Let's turn to one more subject. You talked a little this
7 morning about how in 1978, your unit was sent to the eastern
8 battlefield to engage in combat with the Vietnamese army. During
9 the time you were at the battlefield in 1978, were any Vietnamese
10 soldiers captured and, if so, what was done with the Vietnamese
11 soldiers who were captured?

12 A. I never arrested any Vietnamese soldier.

13 Q. I wasn't asking about arresting. I was asking about soldiers
14 who were captured in combat. Were you aware of Vietnamese
15 soldiers being captured and, if so, what was done with them after
16 they were captured?

17 A. I was at the rear battlefield. How could I know about the
18 capture of any Vietnamese soldiers?

19 Q. Let me read to you then what you told DC-Cam in Interview
20 E3/7535.

21 Your Honours, this is Khmer, ERN 00087832; English, 00324180;
22 French, 00324222.

23 [14.15.47]

24 Question: "During combat did you capture any Vietnamese
25 combatants?"

70

1 Answer: "Yes, we captured some."

2 Question: "What did you do to them?"

3 Answer: "They were transported by truck to Phnom Penh." End of
4 quote.

5 Mr. Witness, is that part of your DC-Cam interview accurate or
6 were you not aware of the capture of Vietnamese soldiers?

7 A. I did not know anything about that. I did not know about any
8 capture. What else can I say?

9 Q. Then -- so you are telling us then that this part of your
10 DC-Cam interview is also incorrect; is that right?

11 A. That is not -- that is not correct.

12 [14.17.35]

13 JUDGE FENZ:

14 Sorry. You can't have it both ways. You just told me that your
15 DC-Cam statement was correct and you know that because you read
16 it before you signed it. And now you are telling us time and
17 again that it is not correct. So which one is it?

18 MR. KOPPE:

19 It's not both. It's not two options. Obviously, something
20 happened in the lunch break.

21 JUDGE FENZ:

22 Let me first--

23 MR. KOPPE:

24 No.

25 JUDGE FENZ:

71

1 --let me first finish.

2 [14.18.58]

3 MR. KOPPE:

4 If something happened then you should ask him. That is what the
5 Court is about. It is about proper proceedings. Something
6 happened to him in lunch.

7 (Judge deliberate)

8 [14.19.55]

9 MR. PRESIDENT:

10 The Chamber will take a 20 minute recess.

11 (Court recesses from 1420H to 1444H)

12 MR. PRESIDENT:

13 Please be seated.

14 The Chamber decides to proceed to in-camera session in order to
15 further decide whether or not the Chamber should proceed with the
16 open or closed session, after this closed session hearing.

17 AV Unit please disconnect voice and video to the public gallery
18 and also to the press room.

19 (Suspension of public session 1446H)

20 (Closed session from 1446H to 1505H)

21 (Resumption of public session 1506H)

22 MR. PRESIDENT:

23 The Co-Prosecutor, you may resume your questioning.

24 QUESTIONING BY MR. LYSAK RESUMES:

25 Thank you, Mr. President.

1 Q. Mr. Witness, before I end my questions, let me try one more
2 subject with you. Again, this relates to the period where you had
3 been sent to the East Zone in 1978. During that time that you
4 were in the East Zone in 1978, did you witness any executions of
5 persons who were connected to East Zone Secretary So Phim?

6 [15.07.25]

7 MR. SUOY SAO:

8 A. I did not see him.

9 Q. No, I wasn't asking whether you saw So Phim, I was asking
10 whether you witnessed or were aware of executions of people who
11 were related or connected to him; his messenger, relatives. Were
12 you aware or did you witness any executions of people who had any
13 connection to So Phim?

14 A. No, I never witnessed that. I was at the rear.

15 Q. Let me then direct you to one additional excerpt from your
16 DC-Cam interview, E3/7535. Your Honours, this is at Khmer,
17 00087838; English, 00324184; French, 00324226 through 27.

18 This is what the DC-Cam transcript indicates you told them.

19 Question: "After So Phim was captured, did they start cleansing
20 campaign by capturing?"

21 Answer: "Yes, they started cleansing all So Phim's links."

22 Question: "Did they cleanse by calling to be educated or other
23 ways?"

24 Answer: "Some were taken to kill, especially those who were
25 actively involved."

73

1 Question: "Did you see all those things?"

2 Answer: "Yes, I saw them killing people."

3 Question: "Where?"

4 Answer: "At Chrum."

5 Question: "How did they kill?"

6 Answer: "The Southwest forces killed So Phim's wife and
7 messengers." End of quote.

8 [15.09.56]

9 Mr. Witness, did you witness executions of So Phim's messenger or
10 the wife?

11 MR. SUOY SAO:

12 A. No, I did not witness it. How can I say I did. I was at the
13 rear, as I said.

14 Q. Why did you tell DC-Cam that you saw Southwest forces killing
15 people?

16 A. When did I say that? No, I did not know anything about that.

17 MR. LYSAK:

18 Your Honours, I have no further questions from this witness.

19 [15.11.04]

20 MR. PRESIDENT:

21 Thank you, Deputy Co-Prosecutor. I'd like to hand the floor now
22 to the Lead Co-Lawyers for Civil Parties to put questions to the
23 witness.

24 MS. GUIRAUD:

25 Thank you, Mr. President. We have no questions.

1 MR. PRESIDENT:

2 Deputy Co-Prosecutor, you have the floor.

3 MR. LYSAK:

4 Yes, the only other thing I wanted to ask the Court is I -- in
5 view of the fact that some assertions were made by Defence
6 Counsel before we went into closed session, I think at some point
7 the public should be informed of the results of the inquiry in
8 closed session.

9 I don't think there was anything confidential during that, but I
10 think it's important the public be informed that -- of what the
11 witness said in response to the questions from the Bench.

12 [15.12.12]

13 MR. KOPPE:

14 What was the purpose of the closed session then? I mean, a closed
15 session's a closed session.

16 JUDGE FENZ:

17 Well, the purpose was to figure out or to determine the facts
18 that allow us to decide whether we go in closed session or not.

19 MR. KOPPE:

20 I understand, but you cannot promise him that whatever is being
21 said during closed session will stay in the closed session and
22 then because the answers for whatever reason are unsatisfactory,
23 then not keep that promise to him anymore.

24 [15.12.44]

25 JUDGE FENZ:

75

1 I'm not sure whether the word "satisfactory" or "unsatisfactory"
2 comes in, but I think in a very general way it's permissible to
3 say -- and I'm doing this to inform the public -- that the
4 witness confirmed that he hasn't been approached by anybody or
5 threatened by anybody before or during this statement and I'll
6 leave it as that.

7 MR. KOPPE:

8 Well, so much for promising a witness that nothing will be said
9 from here.

10 JUDGE FENZ:

11 This cannot possibly be negative for him.

12 MR. PRESIDENT:

13 I now hand the floor to the defence team for Khieu Samphan.

14 MS. GUISSSE:

15 We have no questions, Mr. President.

16 [15.13.45]

17 MR. PRESIDENT:

18 Thank you, Counsel.

19 The hearing of testimony of Suoy Sao, is now concluded. And Mr.
20 Suoy Sao, the Chamber is grateful of your testimony as a witness
21 for one full day. You may now be excused.

22 Court Officer, please work with WESU to make arrangement to
23 transport this witness back to his residence or wherever he
24 wishes to go to.

25 The Chamber adjourns the proceedings now and will resume on

76

1 Monday 22 August 2016 commencing from nine o'clock in the
2 morning.

3 [15.14.33]

4 On Monday, the Chamber will hear testimony of Witness 2-TCW-850,
5 via a video-conference, from Oddar Meanchey province, in relation
6 to Internal Purges segment. This information is for the parties
7 and the general public.

8 Security personnel, you are instructed to take Khieu Samphan and
9 Nuon Chea back to the detention facility and have them returned
10 to attend the proceeding on Monday 22 August 2016.

11 The Court is now adjourned.

12 (Court adjourns at 1515H)

13

14

15

16

17

18

19

20

21

22

23

24

25