



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 PROCEEDINGS - "DUCH" TRIAL

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

23 April 2009, 0930H

Trial Day 11

Before the Judges:

NIL Nonn, Presiding
Silvia CARTWRIGHT
YA Sokhan
Jean-Marc LAVERGNE
THOU Mony
YOU Ottara (Reserve)
Claudia FENZ (Reserve)

For the Civil Parties:

HONG Kimsuon
TY Srinna
YUNG Phanit
MOCH Sovannary
Silke STUDZINSKY
Philippe CANONNE
KONG Pisey
Alain WERNER

For the Trial Chamber:

DUCH Phary
SE Kolvuthy
LIM Suy-Hong
Matteo CRIPPA
Natacha WEXELS-RISER

For Court Management Section:

UCH Arun

For the Office of the Co-Prosecutors:

TAN Senarong
Alexander BATES
PICH Sambath
Stuart FORD
PAK Chanlino

For the Accused Person KAING GUEK EAV

François ROUX
KAR Savuth
Heleyn UÑAC

I N D E X

WITNESSES

THE ACCUSED, KAING GUEK EAV

Questioning by Judge Ya Sokhan continues page 8

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. BATES	English
JUDGE CARTWRIGHT	English
JUDGE LAVERGNE	French
MR. ROUX	French
MR. TAN SENARONG	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
JUDGE YA SOKHAN	Khmer

1

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

2 (Judges enter courtroom)

3 [09.30.44]

4 MR. PRESIDENT:

5 The Trial Chamber now declares the continuation of our
6 proceedings.

7 This morning, before we continue the proceeding of questioning
8 the accused relating to the facts on the establishment of the S
9 21 office and the prison in Ta Kmao, the Trial Chamber will
10 declare a decision on the extension of time limit on the request
11 for release of the accused.

12 On 1 April 2009, the Trial Chamber received the first oral
13 request for release made by the defence. In accordance with Rule
14 82.3 of the Internal Rules, the Chamber shall decide as soon as
15 possible and, in any event, no later than 30 days after receiving
16 the oral request or application unless circumstances justify a
17 greater period.

18 The Chamber notes that the request is based inter alia on the
19 allegation that the detention of the accused is unduly prolonged,
20 and that the detention at the ECCC is a continuation of the
21 detention by the Military Court. In order to assess these
22 claims, the Trial Chamber considers that it needs to consult the
23 case file of the Military Court.

24 On 26 March 2009, the Chamber requested, through the Office of
25 Administration, the Military Court to provide it with the case

2

1 file relating to the detention of the accused by the Military
2 Court. It was on 6 April -- correction.
3 [09.33.54]
4 On 6 April 2009, the Chamber requested, through the Office of
5 Administration, the Military Court to provide it with the case
6 file relating to detention of the accused by the Military Court.
7 On 10 April 2009, the President of the Chamber received a copy of
8 the case file of the Military Court from the Office of
9 Administration. The case file is entirely in Khmer and has been
10 sent for translation into English and French. The Translation
11 Pool has informed the Chamber that the translation of the file
12 into English and French will be ready on 15 May 2009.
13 In addition, the Chamber notes that written submissions in
14 support of their request were filed by the defence in Khmer and
15 French on 10 April 2009. That is 10 days after the initial
16 request. Finally, the Chamber notes the one-week recess from 13
17 to 17 April 2009, as well as the upcoming recess from 1 to 15 May
18 2009.
19 Following receipt of the translations of the Military Court file,
20 the parties will have 10 days to comment. Accordingly, in order
21 to allow adequate time for the parties to respond and for the
22 Chamber to make a reasoned and well-informed decision, it decides
23 that circumstances exist justifying an extension of the time
24 limit for a decision on the request for release by an additional
25 45 days.

3

1 The Chamber will issue its decision on the request for release by
2 15 June 2009.

3 Next, we will now resume our questioning of the accused related
4 to the fact.

5 Security guard, bring the accused to the dock.

6 MR. PRESIDENT:

7 I would like to give the floor now to Judge Ya Sokhan to continue
8 his questioning to the accused.

9 [09.37.23]

10 JUDGE YA SOKHAN:

11 Thank you, Mr. President.

12 MR. ROUX:

13 I think that there was, again, an interpretation problem. Last
14 night, after having assessed with -- after having gone over
15 things with the accused, I would wish that he be asked to
16 re-specify concerning the horizontal and/or vertical relations in
17 the organization; what was said in Khmer and what has been
18 translated concerning these two points.

19 So I would like that we get back to this point.

20 MR. PRESIDENT:

21 The floor is now for Judge Cartwright.

22 JUDGE CARTWRIGHT:

23 Thank you, Maître Roux.

24 I just want to comment to the accused that it would be very
25 helpful for translation purposes if he were to go very slowly and

4

1 to keep his answers short and to not give a lot of examples.

2 Would you be able to try to do that?

3 [09.39.16]

4 MR. PRESIDENT:

5 Mr. François Roux, do you still want the accused to verify the
6 system of communication by what you call horizontal lines? What
7 he read yesterday was that it was clearly stated in the Khmer
8 language on the mechanism of the administration system through
9 the vertical and horizontal lines.

10 However, due to his response, he included a number of examples
11 taken from a document up to the point where the Co-Prosecutors
12 raised that question in response. Because of the examples
13 raised, not on the issue of the documents for discussion related
14 to the facts and due to the translation issue, there might be
15 problems, but in the Khmer language it was clearly stated and
16 there were also examples to accompany those communication
17 mechanisms.

18 But then there was a confusion or misunderstanding on the use of
19 the documents to provide those examples. That's why Judge
20 Cartwright just raised the issue that the responses from the
21 accused shall be short and do not provide too many examples that
22 might be confused and might complicate the statement.

23 The more we talk, the longer we talk, we consume more time and
24 it's difficult for the translators to render their service.

25 Because the translation is in a delay process from -- first from

5

1 Khmer into English and then from English into the French
2 language, then there might be some losses. In some cases, 50
3 percent might be lost; in other circumstances, more percentage
4 might be lost and it might interfere with the rendering of fair
5 justice.

6 As you also have said yesterday, the issue was raised and the
7 Chamber will discuss this issue tomorrow -- this afternoon and
8 tomorrow morning in order to make a clear decision before we
9 start the proceedings on the next fact, in order to make it more
10 appropriate.

11 Now, let him reconfirm the statement as you would like, Mr.
12 François Roux.

13 [09.42.34]

14 MR. ROUX:

15 Yes, Mr. President, I would like the accused to reconfirm his
16 statement concerning the communication -- the nature of the
17 communication within Democratic Kampuchea and within the security
18 structures.

19 MR. PRESIDENT:

20 Mr. Kaing Guek Eav, do you understand the purpose of your defence
21 counsel, so you now can take the floor to reiterate your
22 statement.

23 THE ACCUSED:

24 Thank you, Mr. President.

25 The truth in the Democratic Kampuchea, in particular at this

6

1 moment, I may say, it is about the security task. This work was
2 not done through the horizontal nature of communication.

3 Yesterday, I did not make a mistake, but this morning my defence
4 counsel noted that there was a mis-translation -- that there was
5 a communication through the horizontal line and there was none.

6 And I would like to raise that example to clearly reiterate that
7 there would be only the vertical from S-21 to the upper level,
8 and to the zones and to the other offices and divisions in Phnom
9 Penh.

10 [09.44.34]

11 So this is just a short example. So to conclude I would like to
12 confirm that the security tasks of the Democratic Kampuchea was
13 not in the form of horizontal line between security offices.

14 That's all my submission.

15 MR. PRESIDENT:

16 Judge Ya Sokhan, you can now take the floor.

17 Judge Lavergne, I note you would like to make some comments. The
18 floor is yours.

19 JUDGE LAVERGNE:

20 Yes, indeed, I would like us to be particularly clear about this
21 because for me it's completely at the opposite from what I heard
22 yesterday; exactly the opposite from what I heard yesterday.

23 So I would like to know if we're really dealing with a mistake, a
24 translation error, or if we are facing here a problem of
25 understanding or a problem of coherency in what the accused is

7

1 stating.

2 So I would like to verify, therefore, the content of the Khmer
3 transcripts. Thank you.

4 What I heard yesterday is that there were horizontal
5 communication possibilities between security centre to security
6 centre, and today what I understand -- but maybe of course it
7 might be difficult to understand -- is that there was only
8 horizontal communication.

9 [09.46.25]

10 THE INTERPRETER:

11 Only vertical communication, the interpreter would like to
12 correct, and that there was no horizontal communication.

13 MR. ROUX:

14 If I insisted upon this issue, it's that it was deeply debated in
15 front of the Co-Investigating Judges, and you will see in the
16 written records the accused always said that there was no
17 communication between the different security centres, that
18 everything happened in a vertical manner; that is to say from the
19 bottom to the top.

20 We spoke about this in depth before the Co-Investigating Judges
21 so, therefore, I was also surprised like you yesterday to hear
22 the opposite, and I think the Prosecutor was also surprised in
23 the same way to hear the opposite. So I would just like to
24 check, just as you, what the transcripts have to say about this.

25 JUDGE LAVERGNE:

8

1 This is not what was said at the investigation level. We're
2 speaking about what the accused said yesterday during the
3 hearing.

4 MR. PRESIDENT:

5 Judge Ya Sokhan, you can now proceed with your questions.

6 [09.48.20]

7 JUDGE YA SOKHAN:

8 Thank you, Mr. President.

9 BY JUDGE YA SOKHAN:

10 Q.The accused, yesterday you stated that the letter dated on the
11 30th of June 1976 and the letter dated on the 9th of October 1975
12 were not sealed or signed. What were they, and were the letters
13 -- or are the letters included in the case file?

14 A.Your Honour, this letter was requisitioned from the Standing
15 Committee of the party. These two letters, the Co-Prosecutor
16 also used in the final submission and the Co-Investigating Judges
17 also used them in the introductory submission -- sorry, the
18 Closing Order.

19 May I be permitted to take a minute to check the ERN number as
20 reference?

21 MR. BATES:

22 Your Honour, if I can assist with the document number and the ERN
23 numbers in all three languages. The accused is correct, it was
24 part of the case file, it is part of the case file. It was filed
25 in the introductory submission, the final submission and the

9

1 Closing Order.

2 It is Document Introductory Submission Annex C, Document 6.2 --

3 6.3, I'm sorry. And in Khmer the ERN number is 0003136 to 3142;

4 in English, 00182809 to 814; and in French, 00224363 to 367.

5 And perhaps I can give also the title of the document in English,

6 which is "Decision of the Central Committee Regarding a Number of

7 Matters" and the date is the 30th of March 1976.

8 And in relation to the other document, if Your Honours will give

9 me a moment, we can provide the same information for that.

10 [09.52.31]

11 MR. ROUX:

12 Maybe concerning the document of October, the Khmer references

13 are 00019108 up to 00019126, which you can check, Mr. Prosecutor,

14 and in English it was a translation draft, I believe. So in

15 English the ERN number, 00183393 up to 00183408, but with the

16 mentioned draft as well. I do not have any French version,

17 however.

18 MR. BATES:

19 The French translation (microphone not activated) of 00292868 to

20 00292886, and this is Introductory Submission Annex C, Document

21 13.2.

22 BY JUDGE YA SOKHAN:

23 Q.Can you confirm whether the security office in DK, how many

24 were they and what were they classified as?

25 A.Your Honour, when I came to ECCC the other security offices,

10

1 other than S-21, I
2 only know the security office in Kompong Thom and the supervision
3 of the Central Zone,
4 overseen by my brother-in-law.

5 [09.58.06]

6 I know this security office very clear because on the 1st of
7 January 1976 I took my mother home and then I entered that
8 security office because as his brother I had to pay a visit to
9 him.

10 Second; security office -- I know also the security office of
11 Sector 32 belonged to the former Southeast Zone, later on
12 identified as the West Zone. Later on I know that this security
13 office was named Office 99, M-99. The reason I know because the
14 superior asked me to send Ham In to stay at that office to be
15 detained and to serve the sentence there.

16 In conclusion, before I came to ECCC I only had known two other
17 security offices, just two. Then I have learned that security
18 offices existed in other places, and they're numerous security
19 offices.

20 MR. PRESIDENT:

21 Judge Lavergne, you wanted to make some observation?

22 BY JUDGE LAVERGNE:

23 Q.I just want to find out or to make sure that there isn't a
24 translation problem because I've heard twice the accused indicate
25 that he only knew two security centres before getting to the

11

1 ECCC; is that correct or is it before getting something --
2 somewhere else? Is that what you said; you only knew two
3 security offices before you came to the ECCC?

4 [10.01.46]

5 A.Your Honour, before I arrived to the ECCC or before I was sent
6 to the Military Court. Let me state further that I know a police
7 office in the Kampong Thom sector because my brother-in-law
8 supervised that office. So I went in there to visit him as a
9 private individual, it was not an official visit.

10 Second; the office M-99 was under the order of my superior,
11 Professor Son Sen, order me to send the victims of the M-13
12 office to that M-99 office. That was the order from my superior
13 which I implemented. I also would like to state that the office
14 M-13 was still part of the Special Zone and it ended on the 30 of
15 April 1975.

16 When I sent a few of the prisoners to that office by the order
17 and for the office M-99 it existed from the -- from the previous
18 time and it was still operational at the time. It belonged to
19 the West Zone. So it was a separate unit and there was no
20 horizontal communication with that office.

21 BY JUDGE YA SOKHAN:

22 Q.You haven't yet stated what is the category of the S-21
23 office.

24 A.Your Honour, the S-21 office was under the supervision of
25 Professor Son Sen.

12

1 The document dated 9th of October was a testimony to that fact.
2 Towards the end of the page, of the last page, it states -- it
3 was towards the end of the first page. At number 6, it states --

4 THE INTERPRETER:

5 The interpreter would like the accused to repeat.

6 [10.07.00]

7 THE ACCUSED:

8 At number 6 it reads, "Comrade Khieu in charge of the general
9 staff and the security". And I would like to inform the Chambers
10 that Comrade Khieu is Son Sen; Professor Son Sen.

11 And I also would like to state that the documents at the S 21
12 office were those documents that I wrote and sent to my Professor
13 Son Sen, and subsequently they were sent to Uncle Nuon Chea
14 because he took charge after Professor Son Sen -- when Professor
15 Son Sen was sent or went to the front battlefield.

16 That is all my response to you, Your Honour.

17 MR. PRESIDENT:

18 Judge Lavergne, the floor is yours.

19 BY JUDGE LAVERGNE:

20 Q.Reference has been made to a document. Could we have the
21 exact document numbers? I have said before that each time a
22 document is quoted from or referred to, we should have the exact
23 references of the document.

24 A.I believe Your Honours require me to refer to the actual
25 documents from the S 21 office.

13

1 Q.Unless I am mistaken, you indicated that you would be
2 referring to a specific document in your answer. Could you give
3 me the reference, the ERN number, the index number of this
4 document, please?

5 A.Thank you, Your Honour, for asking me to provide a reference
6 number of the document.

7 The document dated the 9th of October 1975 has the ERN number
8 00019108 up to 00019126. The contents that I talked about, it
9 was in that ERN document. That is the ERN 00019108.

10 And the contents that I referred to, that Professor Son Sen was
11 my superior, it was on page -- it was on the page with the ERN
12 number 00019108. It was on the first page of that document.

13 That is my response to you, Your Honour.

14 MR. ROUX:

15 I would like to add that the appropriate page in English is
16 000183393 and this is still paragraph 6. The ERN for the French
17 is 00292868. This is still paragraph 6, and it says in French,
18 "The meeting of the Standing Committee on the 9th of October
19 1975".

20 BY JUDGE YA SOKHAN:

21 Q.Can you verify on the establishment of the S 21; what were the
22 duties of the S 21?

23 A.Your Honours, let me state that every security office,
24 including the S 21 office, had the duty to detain, to torture and
25 interrogate and, finally, to smash; that is to kill.

14

1 [10.15.31]

2 JUDGE YA SOKHAN:

3 Greffier, can you show the Document Number 00153467 -- can you
4 show this document on the monitor?

5 BY JUDGE YA SOKHAN:

6 Q.This is a sketch of the location of the S-21 office.

7 Yesterday you confirmed the initial location of the S-21 Office,
8 which is at point A. At that time you also confirmed at that
9 point A location the Chairman of the S-21 Office at the time was
10 Nat, and you were the deputy at the time. You also continued to
11 confirm that that location moved to the big prison, the PJ
12 prison, and later returned to that same location. What was the
13 reason of moving a number of time in this short period?

14 A.I would like to inform Your Honour that at that time, Nat was
15 the Chairman. The relocation of the office was not consulted by
16 him. I would like to inform Your Honour that what I'm going to
17 say is just my analysis and my conclusion. When people were
18 brought in to be interrogated at point A, between Street 360 and
19 163, it was a residential house. So it was difficult to
20 supervise and manage the prisoners during the interrogation.
21 Therefore, Nat relocated it to the PJ prison. This is my
22 conclusion, made by myself, and the relocation from the PJ to the
23 point A location was because the superior ordered so. At that
24 location it was in open, and the Chinese visitors could see it.
25 That is what I can tell you Your Honour.

15

1 Q.Yesterday you stated about the structures on organizing S 21
2 when Nat was the chairman. Could you please confirm or make it
3 clearer when Nat was the chairman of S 21 as what you stated
4 earlier? Was there any exact organizational structure to be used
5 at S 21?

6 A.Your Honour, during the time when Nat was the chairman I did
7 not ask for the organizational chart and I did not want to know
8 or to understand the forces at the location because it was under
9 the supervision of Nat and I did not want to interfere, and I did
10 not want to do that. I let the other people -- let him do. So I
11 only did what I was assigned to do. So I can conclude that the
12 daily work, all kind of daily work, was under Comrade Hor or Keum
13 Huor, the third person at S 21 at the initial stage. So that's
14 all my submission.

15 [10.22.46]

16 Q.Yesterday you stated that the staff at S 21 were brought in
17 from Division 703, M 13, and the secret forces. When you brought
18 them from M 13 were they just the experts who were good at
19 interrogating, or were there other people like that were also
20 brought in?

21 A.Your Honour, the combatants and cadres from M 13 were mostly
22 integrated into the interrogation section. I would like to say
23 again, to be clear for the translation, the cadres, combatants
24 from M 13 were -- the majority of them were included in the
25 interrogating unit or team. Other people, a few other people who

16

1 were my close messengers, there were two of them other than these
2 people who were appointed as my messengers. So that is about the
3 composition of people brought in from M 13.

4 Q.Do you still remember the people who -- the interrogators
5 brought in from M 13, who were they?

6 A.Your Honour, people were brought from M 13 and worked in the
7 interrogating team include as following. Number 1 Brother Mam
8 Nai alias Chan -- Number 1, Brother Mam Nai alias Chan.
9 Yesterday, I clearly stated about these and later on I used this
10 individual -- later on I used this person as a person who
11 interrogated the Vietnamese prisoner of war and as my assistant.
12 Pon was the second person. This person was used to interrogate
13 important or key prisoners from the very beginning until the end
14 -- until the 7 of January 1979; that's what I'm saying.

15 Other comrades include people from Thma Kob village and Trapeang
16 Traok village and Tumneab village. People from Thma Kob,
17 Tumneab, and Trapeang Traok Commune -- sorry the village of
18 Trapeang Traok include as following: 1, Comrade Un; I think his
19 first name was Kim; Number 2, Comrade Nan or Prak Nan. These
20 people came from Tumneab and Trapeang Traok villages.

21 [10:29:18]

22 And other people were from Prey Chrov village including Sa Tit,
23 Tum Oeun, Mok Chhen and another person from Snuol village,
24 Comrade Meas; he died already. And I can't remember other
25 people. Maybe there are a few more, but I just can't remember.

17

1 Q.The forces brought in from Division 703 and the municipal
2 forces, were they also included in the interrogating team?

3 A.Your Honour, the people from the city were integrated into the
4 interrogating team; all of them. People from 703 -- Division 703
5 some of them were also interrogators included in the
6 interrogating team, that's all.

7 Q.You was appointed as the Chairman of S-21. When were you
8 appointed as the Chairman and where? In which location was you
9 appointed that position?

10 A.Your Honour, I think it -- in mid of March 1976. My superior
11 asked me and Nat to work as usual. At that time he said, now
12 S-21 should be given to Duch to oversee, although the work may be
13 slow, but it would be fine. So let Comrade Duch handle it and
14 let Nat do other things; that's what he said to us.
15 And later on, he went on to say that let Comrade Nat finish his
16 remaining tasks. Therefore, people who order such transfer was
17 laid down from my superior, Son Sen.

18 And the location where I was assigned or appointed, this position
19 was at the normal working place. I think if you refer to the
20 map, you can see that it was located at Point B in the map.
21 That's all my response regarding this matter.

22 [10:35:20]

23 Q.The location in which you was appointed of S-21, was it at the
24 corner of 163 and 360 Roads?

25 A.Your Honour, that location which I was appointed as a

18

1 Chairman, it was the location where I worked with my superior.

2 On the map that I already stated before the Office of

3 Co-Investigating Judges, it was on the B point which was to the

4 north of Borey Keila or the stadium. This map --

5 JUDGE YA SOKHAN:

6 Could the Greffier put the map on the projector?

7 THE ACCUSED:

8 This is Russian Boulevard and here is Point B between Road 320

9 and Road 122-118, so here is the circle I pointed. It was the

10 location when I was appointed as the chairman.

11 [10.37.34]

12 The villa that we worked in was labelled in rectangular on Road

13 118.

14 MR. BATES:

15 I'm sorry, Your Honour, could the Greffier just lower the map a

16 little bit? Thank you.

17 BY JUDGE YA SOKHAN:

18 Q. When you was a chairman of S-21 office was you -- did you

19 start to organize the organizational structure immediately after

20 that?

21 MR. TAN SENARONG:

22 Your Honour, the representative of the prosecution would like the

23 accused to clarify the blocks in the map; whether each block A,

24 B, C, D refers to which, because we need to be informed. We

25 don't know what these blocks stand for, whether block A refers to

19

1 the train station or the Ministry of Defence or Borey Keila, the
2 stadium. We would like clarification from the accused, Your
3 Honour.

4 THE ACCUSED:

5 Thank you, Mr. Co-Prosecutor. I would like to confirm that A,
6 the label A -- here it was the location when I was -- it was at
7 the train station of Phnom Penh.
8 Second, Point B is the location where I worked with Professor Son
9 Sen since October, from 1975 onward until the 15th of August
10 1977. And Point C is the Borey Keila. This Borey Keila had a
11 huge building to the south, facing Street 182. This was the
12 location Uncle Nuon asked me to come to work there once and a
13 couple of times later on.

14 [10.42.33]

15 I would like to state that Uncle Nuon is Uncle Nuon Chea but in
16 the party rank he was known as Uncle Nuon.

17 Next, could you please move a bit further to the top to show the
18 Sothearos Boulevard. Move a bit further to the west -- further.
19 That's it.

20 The G, the locations with the G letter which I wrote is the
21 Buddhist institute where Uncle Nuon frequently asked me to go and
22 work there. That is my response to you, Your Honour.

23 MR. BATES:

24 Your Honours, I wonder whether it's possible to just put the ERN
25 number of that map in the record. So far we have the other map

20

1 which also has A, B, C, and D, so that there is no confusion can
2 we mark the record with ERN 00153576. Thank you.

3 MR. PRESIDENT:

4 Please include the ER number in the transcript because this
5 document had already been examined.

6 Now, the Court declares a 20-minute adjournment and the Court
7 will resume at 11 a.m.

8 (Court recessed from 1044H to 1106H)

9 (Judges enter courtroom)

10 MR. PRESIDENT:

11 Now to continue our proceedings. The floor is now for Judge Ya
12 Sokhan to continue his questioning.

13 [11.07.10]

14 JUDGE YA SOKHAN:

15 Thank you, Mr. President.

16 BY JUDGE YA SOKHAN:

17 Q.The accused, can you state further at the locations A, B, C
18 and G; are they all the locations of the interrogations or the
19 locations where you met your superior?

20 (Accused given new headphones)

21 JUDGE YA SOKHAN:

22 Is the display ready?

23 BY JUDGE YA SOKHAN:

24 Q.Could you confirm again the location of A, B and C and G, are
25 they the locations for the interrogation or are those the

21

1 locations where you went to meet your superior? And when you
2 became the chairman of S 21 office, what was the location of that
3 S 21 office?

4 A.Your Honours, A is the location where the assignment for the
5 establishment of the S 21 was conveyed. So I worked with
6 Professor Son Sen and Nat for only one time at that A location.
7 And for the B location, it was the location where I worked with
8 Professor Son Sen as he ordered. It was probably from October
9 '75 until the 15th of August 1977. So I worked with my superior
10 at the time, but the superior was Son Sen at the time.

11 And for the C location, it was where I met Uncle Nuon, Nuon Chea.
12 That was the location where I worked with him for about three
13 times.

14 And for the G location, it was where I worked with Uncle Nuon
15 frequently, probably until the 3rd of January 1979.

16 So at the G location and at the C location, they were the
17 locations where I worked with my superior, Nuon Chea.

18 [11.11.57]

19 Q.When you were assigned as the chairman of S 21 office, what
20 was the location of that S 21 office at that time?

21 A.The location of the S 21 office was as I marked on the map.
22 It was at Street 310 South. It was Street 360 but it also
23 covered another row of flats, of units, to the south of the 360
24 Street. So we can say that S 21 was between 310 and 360 Streets,
25 and the Monivong Boulevard and the Street 143. My apology, it's

22

1 163. To the south, it's 160 and east is the Monivong -- I'm
2 sorry, the west is 163, the east is Monivong Boulevard, the south
3 is 160 and the north is 310.

4 Q. When was the S 21 office located to the Ponhea Yat College,
5 and under whose idea and for what reasons? And at what level of
6 authorization was the location been ordered?

7 A. Your Honours, initially, although I was the chairman of the
8 office, the interrogation was still in -- at the corner of Street
9 360 and 163. Because of -- I saw the difficulty in the detention
10 and in the interrogation, I made a decision to request to my
11 superior, Son Sen, to use the Ponhea Yat College as both for the
12 detention and for the interrogation at the time. He approved.
13 Therefore, I relocated the office from the corner of 360 and 163
14 to the Ponhea Yat College compound. It was about in March or
15 April 1976.

16 So that means after I became the chairman. So it was initially
17 my idea, but it was approved by my superior, Professor Son Sen,
18 and the purpose was to facilitate the detention and the
19 interrogation.

20 Q. Can you estimate the size of that location and how many
21 buildings were at that location?

22 A. If we talk about the size of the location, I could not
23 estimate it. However, I can say that the detention and the
24 interrogation units used both the four -- all the four buildings
25 of that Ponhea Yat College. The old administrative building

23

1 office -- the old administrative office of their Ponhea Yat
2 College was used as a working office. Separately, the Tuol Sleng
3 Primary School was used as a workshop.

4 [11:18:50]

5 And for the special prisoners, they were interrogated to the
6 south -- to the south of the location of the Ponhea Yat College.
7 So the special prisoners were interrogated there, but for the
8 enemies, they were interrogated to the east of the Ponhea Yat.
9 That is my response to you, Your Honour.

10 Q.Were there five buildings at the location; building A, B, C,
11 D, and E?

12 A.That's correct. There were five buildings.

13 Q.What was building A aimed for and what were the rest of the
14 buildings were designed for?

15 MR. ROUX:

16 The S-21 buildings are the other map. We're -- there was the
17 other plan; the sketch that was presented before and we are
18 dealing with the other map right now.

19 MR. TAN SENARONG:

20 Your Honour, may you allow one of the map on the schedule to be
21 projected so that Ponhea Yat College can be shown.

22 MR. PRESIDENT:

23 The court officer, could you please take the map out to be
24 projected before the questions regarding the location of S-21 are
25 further put?

24

1 [11.21.56]

2 MR. BATES:

3 I'm sorry, Mr. President, to interrupt.

4 It might be of some assistance if the accused can clarify which
5 is Ponhea Yat High School and which was the Tuol Sleng Primary
6 School because otherwise there'll be some confusion.

7 MR. ROUX:

8 Before that, I think the ERN number of the document to be shown
9 should be provided.

10 MR. BATES:

11 I'm sorry, Your Honour. I didn't know I was being waited on.
12 Perhaps it can be put up on the screen. I don't have the ERN
13 right in front of me of the document that my colleague has put
14 up. If the audiovisual unit could switch to the computer with my
15 associate Mr. Ford here, we can get the document up on the screen
16 for all.

17 I'm sorry, Your Honour. This is part of an audiovisual
18 presentation that has been entered into the case file conducted
19 by a Zoran Lesic, and this is just one of the documents that
20 appears as part of that audiovisual presentation. We had
21 intended, at a later stage, to put this to the Trial Chamber, but
22 as my colleague has raised it now; perhaps I -- perhaps we can
23 identify it if you give me a moment.

24 [11:25:37]

25 MR. TAN SENARONG:

25

1 I would like to confirm that in order we would like the accused
2 to clarify the position. If I'm not mistaken, C -- behind the C
3 building was the former Ponhea Yat College.

4 Could the accused state whether the location here the Tuol Svay
5 Prey College was at the location of S-21, because now it became
6 villas for residents.

7 BY MR. PRESIDENT:

8 Q. Based on the question -- based on the map and questions asked
9 by Judge Ya Sokhan concerning the location of S-21, including the
10 core location and the surrounding buildings in that premises of
11 S-21, that's why we would like the accused to show and identify
12 the buildings surrounding that area. I don't know whether you
13 understand it or not.

14 [11.27.07]

15 A. Thank you, Mr. President. This map, although it is not the
16 sketch I draw for the Office of Co-Investigating Judges, I can
17 say, according to the remarks made by the Co-Prosecutors, at that
18 time Ponhea Yat College comprised of Buildings A, B, C, D, and E,
19 was adjacent to Tuol Svay Prey Primary School. The fence of that
20 school was attached with each other, to the north -- to the west.
21 Now, their location have turned to be the departments or
22 apartment buildings so we should leave it alone. Building C, D,
23 and B, were the detention centre -- detention buildings for
24 people who were detained in these buildings, B, C, D.
25 Building A was for interrogation. The special prison was to the

26

1 south of Building A but where the Vietnamese or Yuon were
2 interrogated was to the east. So I think I have described the
3 map already.

4 My apology; I would like to confirm that Building E was for
5 taking photograph for recording, making lists of documents and
6 later on it was used as the workshop for carving and painting.

7 So my description regarding the map of S-21 is all.

8 MR. BATES:

9 I'm sorry to interrupt again, Your Honour.

10 I just want the record to show clearly where this document has
11 come from and what it is so that there's no doubt on the record.

12 [11.31.16]

13 This is part of a presentation, as I indicated, which is on a DVD
14 from Zoran Lesic. The case file document number is D45/1/1 and
15 it's dated the 5th of May 2008 with original ERN numbers 00189128
16 to 189130 which is the statement provided by Zoran Lesic
17 describing the DVD from which what you see on the screen is a
18 still image.

19 The Co-Prosecutors had intended at a slightly later stage to
20 provide the Court, for its assistance, with hard copies of
21 certain images from this DVD and we have them ready to
22 distribute, if it is of assistance to the Trial Chamber.

23 These documents, as I say, are part of the case file and the hard
24 copy selection from the DVD was filed on the 21st of April under
25 a Rule 92 submission.

27

1 The Co-Prosecutors would seek the Court's guidance as to how they
2 wish us to proceed in introducing this document, which, as I
3 said, had come rather earlier than we had anticipated in this
4 morning's proceedings.

5 (Deliberation between Judges)

6 [11.34.37]

7 MR. PRESIDENT:

8 Could you please repeat your remarks again because through
9 translation maybe I have not really grasped the whole context?
10 Could you please rephrase it?

11 MR. BATES:

12 Thank you, Your Honour.

13 The Co-Prosecutors filed a Rule 92 submission on the 21st of
14 April, so three days ago, regarding notifying the Trial Chamber
15 of documents it wished to put before the Chamber from the case
16 file.

17 And I can hand up to the Bench, to the defence, to the civil
18 parties, and to the accused, a copy of that Rule 92 submission.
19 Briefly, it describes the documents that we say are relevant to
20 this issue, the establishment of S-21. Principally it concerns a
21 DVD of Zoran Lesic who is an expert that was appointed by the
22 Co-Investigating Judges to provide an audio-visual presentation
23 of the surroundings of S 21, Choeng Ek and Phnom Penh. And the
24 binder that the Co-Prosecutors have put together for the
25 assistance of all parties shows certain still photographs from

28

1 that DVD. If the Bench feels it appropriate we can distribute
2 those at this stage and can explain any further, if the Bench
3 wishes.

4 MR. PRESIDENT:

5 It's appropriate and the Chamber approves of the distribution.

6 [11:37:07]

7 MR. ROUX:

8 Mr. President, I understand that there is a submission now coming
9 from the prosecutors as to whether this document be accepted by
10 the Chamber, but I would not like this document to circulate
11 before the Chamber has come to its decision. If we are only
12 dealing here with excerpts from documents that are already in the
13 case file, all we have to do therefore is access the case file.
14 But if we're speaking here about work that has been done by the
15 Co-Prosecutors Office for their own sake and that they wish to
16 share with the Chamber, well then this becomes a new document and
17 they presented a submission, and the defence therefore should be
18 entitled to address this.

19 JUDGE LAVERGNE:

20 Could the Co-Prosecutors please indicate if this document only
21 includes documents that are included in the case file, or if we
22 are dealing with here documents that have been commented by them
23 for the sake of analysis? That's what the Chamber would like to
24 know now.

25 MR. BATES:

29

1 Thank you, Your Honour. They are not new documents. They are
2 all documents contained within the case file and they are to be
3 provided. The intention was to provide to the Court and the
4 defence and all parties for their assistance. As we know, only
5 one page can be displayed on the screen at any one time. This is
6 a reference booklet for all parties to be able to have before
7 them, rather than calling them up individually one by one on the
8 screen. We provide no analysis, no comment, and they are
9 documents all in the case file.

10 [11.39.25]

11 MR. PRESIDENT:

12 The objection of François Roux is not valid because we already
13 made the decision, and please follow it.

14 Next we would like Judge Ya Sokhan to proceed putting questions
15 to the accused.

16 BY JUDGE YA SOKHAN:

17 Q. In the buildings B, C and D, in which building were prisoner
18 cells were separated?

19 A. Your Honours, from the time of the establishment and when I
20 ordered them to build it, I never went inside the building. I
21 would like to clearly state that since the individual cells were
22 made as I ordered them, I did not enter that building. However,
23 from the date that the Co-Investigating Judges took me to see
24 that location, I think only Buildings B and C were where the
25 individual cells were partitioned. And for Building A, which was

30

1 to the south, was the interrogation building. And for Building D
2 to the north it was the location for the detention of the
3 prisoners. So to conclude, from what I observed and recalled
4 after I was brought there to the location --

5 JUDGE YA SOKHAN:

6 Court Officer, can you show you the document with ERN Number
7 0015228 on the screen?

8 [11.43.20]

9 BY JUDGE YA SOKHAN:

10 Q.This organizational chart, did you make this organizational
11 chart?

12 A.Yes. I made this organizational chart by myself.

13 Q.Was there any decision from anybody else?

14 A.Nobody had any influence on me in the making of the
15 organizational chart. It was based on my recollection of what I
16 did at the time, at the time I made that organizational chart.

17 Q>Your deputy, what was his role at the time and what were his
18 duties?

19 A.Your Honour, for Comrade Khoem Vat alias Hor, his daily the
20 daily work, he managed all the daily activities at the S-21. He
21 was always occupied. That was the truth.

22 Q.Can you state clearly whether or which unit or which section
23 he supervised and whom did he receive the order from?

24 A.Let me specify about the ordering. It was a separate work,
25 the work which was not part of the daily activities. That was

31

1 the work that I ordered him to do. That is what I speak in order
2 to refer to his work since he start -- since the S-21 was
3 established.
4 S-21 was established and there were certain works that he had to
5 complete as his obligation, as his compulsory obligation. Those
6 include inspecting the work of the guards, inspecting the
7 receiving of the prisons who were sent to S-21, inspecting the
8 people who were taken out to Choeng Ek. When there was any
9 mishap or any event then an order would be immediately issued
10 before he reported to me.

11 [11.49.19]

12 So at the same time there were also other tasks; for instance,
13 for the production, for the raising supplies to the units, the
14 work on the health care and the implementation of the orders and
15 the disciplines for the entire unit. These are his daily
16 activity.

17 And as for those works that I said were the actual works for him,
18 including the exhumation of bones from the Ta Kmao Prison and
19 burned it, that was an additional task for him. And the waiting
20 to arrest somebody at my house, it was also a separate task for
21 him. For example, another separate task was the taking out of
22 the important peoples to be photographed. I ordered him to do
23 that task as well. Once I receive an order from the upper
24 echelon I immediately call him to receive an order from me.
25 So to conclude this, he had his daily activities that he had to

32

1 do it on a daily basis and there were separate tasks that he had
2 to wait to receive with an order from me.

3 [11.52.16]

4 Q. For Mr. Nun Huy what was his duty as a member of the S-21
5 Committee?

6 A. Your Honour, Nun Huy -- that's his original name. Nun Huy had
7 an absolute task at the Prey Sar. He had a complete task at Prey
8 Sar.

9 MR. PRESIDENT:

10 Do not respond yet. There is a problem with the translation.

11 Court Officer, could you solve the issue?

12 The accused, please respond again to the last part of your
13 question -- of your response due to the technical problem with
14 the translation.

15 THE ACCUSED:

16 Thank you, Mr. President.

17 Comrade Huy with his original name, Nun Huy, he had his exclusive
18 duty at Prey Sar. His first duty was to lead the entire force
19 for the production. His second duty was to re educate the
20 elements who had issues. These are his daily activities, the
21 daily activities of Comrade Huy.

22 Separately, when there was an event where those people had to be
23 sent, those from S 21 into Phnom Penh, he had to seek an approval
24 or a decision either from me or from Comrade Hor. In general, he
25 sought permission from Comrade Hor, however, in certain cases, it

33

1 was required to seek the permission from me as ordered by the
2 upper echelon. So this is my response regarding the duties of
3 Comrade Huy.

4 [11.57.40]

5 BY JUDGE YA SOKHAN:

6 Q.For your role as the chairman, what were your duties?

7 A.As a chairman, my main duty and my detailed role, which had a
8 deep sense of a responsibility for the crimes, the reports on the
9 confessions -- the reports as per the confessions of those people
10 who were tortured, I myself annotated those confessions in order
11 for my superior to understand it easily. So for each confession
12 that I sent to the superior, I had to be involved in the
13 complications of other people.

14 My second duty was the training and education in order to make
15 them to interrogate, so that they dare to interrogate, they dare
16 to torture, that they had experience to interrogate, and all this
17 was the result of the arrest of the new people because for these
18 new people we had to have their confessions. That was my
19 constant duty with my superior. If we ponder deeply, this was
20 involved heavily with the crimes -- the other duties.

21 My combatants, I had to indoctrinate them to make them absolute,
22 to make them dare to interrogate, and this was not a good thing.
23 This was the duty that I performed. So, in short, that was my
24 duties besides giving various orders.

25 [12.01.50]

34

1 Q. Who was in charge of the interrogating unit?

2 A. Hor was in charge but, to be precise, in each group there was
3 a leader assigned. For me, I was in charge. For example, when I
4 could see that I was not satisfied with their duty then I would
5 call them to enter a training session. So the work of training
6 was more in depth than the daily tasks.

7 Q. In the unit, interrogating unit, were interrogators classified
8 as people who interrogate only women detainees and men detainees?

9 A. Thank you, Your Honour.

10 Comrade Pon and Brother Mam Nai were having separate duties. One
11 was assigned to interrogate only the Yuon prisoners. The two
12 interrogators that formed a group included Brother Mam Nai,
13 number one. He interrogated the Yuon and he was my assistant at
14 the same time. He interrogated the Vietnamese and he was also my
15 assistant.

16 As for Comrade Pon, he was exclusively assigned to interrogate
17 key prisoners, including Brother Men San, alias Ya, the former --
18 from former West Zone; correction, the Northeast Zone. So it is
19 just an example to clarify that Comrade Pon only interrogated the
20 most important prisoners and the most high-ranking prisoners.

21 And then the other groups were classified into four main groups;
22 the cool group or cold team, hot team, chewing team. This
23 chewing team was under the supervision of Comrade Tit. As for
24 the other two groups, I cannot remember them yet. So there were
25 three groups of men.

35

1 For the interrogating unit for where women were interrogated was
2 just established. The unit, when the female prisoners were
3 interrogated by female interrogators, was established after an
4 incidence. That incidence happened because the male interrogator
5 sexually abused or raped the female detainee. That interrogator
6 inserted a stick into the vagina of that female detainee. After
7 that incident, I removed him and asked for the permission to
8 create a team of female interrogators by gathering the wives of
9 all cadres to take part. There were five of them.

10 At the outset of the establishment, there were five female
11 interrogators stemmed from cadres. The female chief who led the
12 group was Comrade Mot , the wife of Comrade Hor, but later on
13 there were two female interrogators who were arrested. First
14 Comrade Poeun, the wife of Comrade Meng. Number two, Comrade
15 Khoeun, the wife of Comrade Huy, Huy Prey Sar, not Huy Phnom
16 Penh. So there were only three female interrogators left.
17 That's all my response concerning the interrogators.

18 [12.11.01]

19 MR. PRESIDENT:

20 It is time to adjourn for lunch break so the Trial Chamber would
21 like to adjourn the hearing for today at this moment, and the
22 hearing is going to be resumed on the Monday of the 27th of
23 April, starting from 9:00 a.m.

24 Please be informed that the hearing this afternoon is cancelled
25 due to the fact that the Trial Chamber is seized with outstanding

36

1 applications for the last few days and other administrative
2 affairs concerning the ruling on the matters -- that we need time
3 to discuss that matters.

4 I note the presence of Mr. François Roux.

5 [12.12.11]

6 MR. ROUX:

7 Before you adjourn, may I make a couple of points, with the
8 Court's leave?

9 The defence has once more noted that there were many translation
10 errors. On several occasions the French translator was forced to
11 indicate, at least from what I understood, that this was so.

12 We are dealing with very important matters here and I
13 respectfully draw the attention of the Court to this issue.

14 My second point, Mr. President, is that I would like to return to
15 the dissemination of the Office of the Co-Prosecutors' document.

16 I understand that it was not initially intended to disclose this
17 document immediately because there is a motion that is yet to be
18 determined. I would like the defence to be afforded the

19 opportunity to reply to this motion. I understand that the

20 Co-Prosecutors, first of all, filed a motion to be authorized to

21 produce this document. I would like the defence to be afforded

22 the opportunity to respond to the motion, which for the time

23 being has not been transmitted to the defence in French.

24 This document raises a problem, in that the Co-Prosecutors'

25 position is the one that is being put forward instead of

37

1 materials in the record of the case.

2 For example, the Co-Investigating Judges prepared a photo album
3 of the re-enactment. I would prefer us to work with the
4 documents provided by the Co-Investigating Judges, not on
5 documents that the prosecution has worked on or analyzed to its
6 benefit.

7 I would like to explain my viewpoint in the answer that I intend
8 to -- or the reply that I intend to make to the Co-Prosecutors'
9 motion.

10 Thank you, Mr. President.

11 [12.14.50]

12 MR. BATES:

13 Might I be permitted to reply?

14 This is not the Co-Prosecutors' position. This is not an
15 analysis. This is a document taken from the case file on the
16 orders of the Co-Investigating Judges.

17 Perhaps it is wrongly titled a Rule 92 submission to which a
18 response is required, and that was a matter that was decided in
19 our office recently. But all the Co-Prosecutors are seeking to
20 do is to put documents before the Trial Chamber, as they are
21 entitled to do under Rule 87.2, as are the defence entitled to
22 under the same rule, and as are any party.

23 If the defence wish to place documents before the Chamber, they
24 need only do so and need only ask. This is what this document
25 was to be for, and it was for the benefit of all parties and not

38

1 simply the Co-Prosecutors. As I mentioned, there is no analysis
2 in this document and it does not represent anyone's
3 point-of-view.

4 MR. ROUX:

5 Mr. President, all I ask, since the Co-Prosecutors have filed a
6 motion then the defence should be afforded the opportunity to
7 reply to that motion.

8 Thank you.

9 (Deliberation between Judges)

10 [12.18.52]

11 MR. PRESIDENT:

12 Once again the Chamber would like to inform to the defence
13 counsel that we note your remarks. However, we would like to
14 inform the defence counsel that we have already made the decision
15 regarding the matter and you still fight for the Chamber to
16 accept your arguments to be decided on Monday, on 27 of April,
17 before we resume our hearing.

18 Could you please identify also the documents that have been
19 forwarded to the Co-Prosecutor? So what are those documents that
20 are still contested and that they are contradicted to the rules
21 or to the law, including the translation, including the documents
22 that you see that the Chamber should not decide to accept or
23 regard them as admissible or whether that admission is at error?
24 So next -- because the time for the hearing has run out -- once
25 again the Chamber decides that the hearing today is adjourned at

39

1 this moment and that the hearing is resumed on Monday 27th of
2 April at 9:00 a.m.

3 This afternoon there will be no hearing because the Chamber has
4 other duties in which we have to sit down and discuss, to decide
5 on the other outstanding matters seized by the Chamber during the
6 last few days and to rule on other urgent matters regarding
7 pending applications so that we can maintain the smooth operation
8 of the hearing.

9 The security guard, could you please take the accused back to the
10 detention facility and bring him in on Monday at 9:00 a.m.

11 Parties to the proceedings are also informed to participate in
12 the hearing on Monday before 9:00 a.m.

13 The court is adjourned.

14 (Court adjourns at 1221H)

15

16

17

18

19

20

21

22

23

24

25