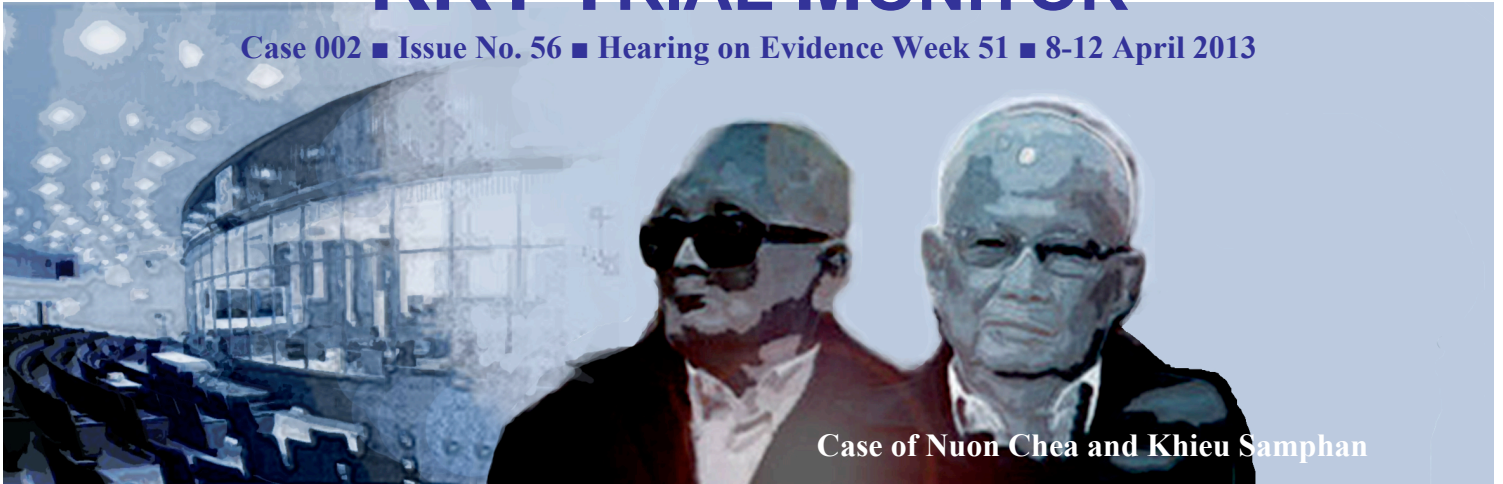


KRT TRIAL MONITOR

Case 002 ■ Issue No. 56 ■ Hearing on Evidence Week 51 ■ 8-12 April 2013



Case of Nuon Chea and Khieu Samphan

Asian International Justice Initiative (AIJI), a project of East-West Center and UC Berkeley War Crimes Studies Center

People of all ages, children, women, and patients were all evacuated. So they would surely die—those women who had just given birth would have little chance to survive.¹

- François Ponchaud

I. OVERVIEW

This week, the Trial Chamber finished hearing the testimony of Chhaom Se, and heard the complete testimony of Witness François Ponchaud. Chhaom Se resumed his testimony following a temporary adjournment on 11 January 2013 due to the ill health of the co-Accused and other interceding matters.² François Ponchaud, a French priest and author of “Cambodia: Year Zero” commenced his testimony on Tuesday. Despite his fluency in Khmer, his decision to speak in Cambodia’s national language caused ongoing interpretation issues throughout the course of his testimony, and considerable time was expended in order to clarify his responses.

A number of objections were raised throughout the week in relation to hearsay and questions falling outside the scope of Case 002/01. The Defense repeatedly objected to Witness Ponchaud giving opinion evidence and speculation, which appeared to be largely tolerated by the Chamber, with the exception of one instance where the Defense objection was sustained. On Thursday, the Chamber also heard arguments in relation to Khieu Samphan’s application for provisional release on bail, prior to a discussion on the admissibility of new evidence that the OCP and the Khieu Samphan Defense had intended to rely on during the hearing.

II. SUMMARY OF CIVIL PARTY AND WITNESS TESTIMONIES

Two witnesses testified this week before the Trial Chamber. Chhaom Se, the former chairman of the Au Kanseng Security Center in the Northeast Zone, testified about the liberation of Phnom Penh in April 1975 and his subsequent work within the security office of Division 801. Subsequently, François Ponchaud, who lived in Cambodia from 1965 until his evacuation from the French Embassy in 1975, provided insight into the events leading up to and following the fall of the country’s capital to KR forces, in addition to research he conducted with Cambodian refugees who had fled the country.

A. Testimony of Chhaom Se

As a member of a Southwest Zone unit involved in the liberation of Phnom Penh in April 1975, and the former chairman of the Au Kanseng Security Center in Division 801, Chhaom Se provided important insight into military structures, communication and operations during DK.³

1. Experience Before and During the Evacuation of Phnom Penh

After joining the revolutionary movement in 1970, Chhaom Se served as a soldier in Kampong Speu, located in the Southwest Zone. He explained that his motivation to join the revolutionary movement was mainly in response to the call from Prince Norodom Sihanouk to take up arms against the Lon Nol regime. He was also driven by the fact that his village, situated along the Vietnamese border, had been bombed and threatened by the encroachment of South Vietnamese forces. In response to questioning by counsel for Nuon Chea, Victor Koppe, the Witness denied that the acts of Lon Nol soldiers contributed to his decision to join the revolution. Under the command of Sou Saroeun, he had received some military training, and his regiment fought alongside Viet Cong soldiers. Chhaom Se testified that, in accordance with the 12 codes of morality the liberation forces were required to abide by, his unit did not steal property or commit “vicious acts against the people.” He claimed he was not aware of any immoral conduct or corruption within the army during the course of the 1975 evacuations, adding that enemies who were stubborn were warned but never executed arbitrarily.

By 17 April 1975, the witness had risen to Deputy Chief of his regiment, responsible for leading a unit of approximately 100 troops to attack Phnom Penh via Pochentong. He recalled receiving orders from Chhit Choeun, *alias* Mok, to attack through Sou Saroeun. Following the fall of Phnom Penh, his unit was stationed near Psar Thmei with instructions to ensure security in the areas that had been “conquered” and subsequently evacuated. He noted that, even after the capital’s liberation, orders were given to evacuate Phnom Penh in order to avoid attacks from remaining members of the defeated army. Counsel for Khieu Samphan, Arthur Vercken, attempted to frame the population movement as a necessary precaution for the military, and not as a punishment of the city dwellers. The Witness largely confirmed this view. Chhaom Se testified that he did not believe the evacuation was forced, because it took seven days before everyone left the city. He explained that the evacuation in the unit where he was assigned was calm, with no fighting, although he heard that other sections dealt with residents who resisted or hid. He stated that such people were likely warned to leave, but not fired upon.

The witness also recalled attending a conference at the Olympic Stadium in 1975, where Division 801 was formed, and the senior leaders of the new regime were named. He confirmed that 21 leaders attended—a fact that he learned from reading two issues of *Revolutionary Flag* he received after the conference. He was unable to recall the name of the commander who announced the reassignment of Division 801 to the Northeast, but he stated it could have been either Son Sen or Chhit Choeun. He noted that Khieu Samphan was present in his role as Chairman of the State Presidium, although he did not know the rank of the Accused at the time.

2. Knowledge of Command Structures in Division 801 and the Northeast Zone

In late 1975, Chhaom Se traveled to the Northeast Zone with Division 801 forces, and in 1976, he was appointed as chief of Au Kanseng re-education center near Banlung. When asked why he was selected as its chairman, he found it difficult to respond. He presumed

that his selection was due to his strong commitment and duties performed as a messenger for Sou Saroeun (when he was the head of the Division and later the Zone chairman). The Witness remarked that Sou Saroeun had trusted him “as a brother or nephew.”⁴

Chhaom Se testified that Sou Saroeun frequently traveled back and forth from the Northeast to Phnom Penh every year. Following his commander’s return from meetings in the capital, the witness explained that Sou Saroeun disseminated information to the Division about how to execute plans “to defend the country and to increase agricultural production.” The lower-level cadres of Division 801 were also asked to strengthen their forces, train people to follow the “orders of the upper authority, and to reduce conflict and try to expand friendship” among the ranks. In response to questioning by Koppe, the witness confirmed that his use of “upper echelon” did not imply command structures above his immediate superior, Sou Saroeun, as he never received direct instructions from anyone else.

In 1977, Keo Saroeun was arrested and replaced by Pao Sam Onn. As with other leaders and military commanders, he was called to a study session in Phnom Penh, and never returned to the Northeast. On 30 March 1977, a report was sent from Division 801 to Son Sen, asking that Pao Sam Onn be replaced with Comrade Mao. After Prosecutor Vincent de Wilde d’Estmael read out the report, the Witness confirmed that Pao Sam Onn had followed Keo Saroeun, but he had been replaced with Comrade Mao. Chhaom Se claimed that his low-level position left him unaware of the eventual fate of Comrade Pao Sam Onn. The Prosecutor noted his name in a list of S-21 prisoners.

3. Chairmanship of Au Kanseng Security Center

The Witness claimed that Sou Saroeun had exercised all authority in decision-making concerning the liberation or execution of prisoners at Au Kanseng. He recalled meeting personally with Sou Saroeun, and described Sou Saroeun’s desire to focus attention on the issue of internal enemies attacking from within Division 801. Sou Saroeun reportedly had explained that confessions were necessary in order to understand the overall situation, particularly to identify at what rank enemies were “burrowing from inside.” Chhaom Se explained to Civil Party Lawyer Chet Vanly that the civilian detainees at Au Kanseng were mostly “base people” sent for reeducation after being implicated by someone who did not like the way they talked. At one point, the General Staff sent a person named Nau to work at the Security Center, study the “enemy communications line” and “internal enemies,” and collect documents.⁵ He also recounted giving lessons to civilians on how to refashion themselves and correct their behavior.

At another point in his testimony, the Witness referred to a situation where, under orders from Sou Saroeun, more than 100 ethnic Jarai villagers, including women of all ages, had been captured by frontline soldiers after crossing the border from Vietnam. The villagers were transported to the detention center for one night, and then removed for execution. de Wilde d’Estmael quoted a telegram sent from Vy⁶ to “Om Nuon, *Bong* [“Brother”] Van (the alias of Ieng Sary), *Bong* Phuong, *Bong* Khieu (the alias of Son Sen), office, and archives” confirming the events described by the Witness. In paragraph three of the telegram, Vy described the Jarai people as “external enemies penetrating territory,” and wrote “I am asking for extra recommendations from Angkar. The Production Unit 801 is proposing an immediate and definite decision. I am waiting for your answer.”⁷ Chhaom Se confirmed that the group mentioned in the telegram corresponded to the Jarai received at his facility. He also confirmed that Division 801 frequently sought instructions from the Center through similar telegrams.

The Witness explained how the number of prisoners at the Security Center increased from about 50 to 100 as more military cadres began implicating each other, and the purges

intensified. This coincided with an intensifying situation along the border with Vietnam. Regarding the use of torture, Chhaom Se noted that, at first, they could not torture detainees if the answers given were “incorrect,” but they were later authorized to torture after repeated questioning. When counsel for Nuon Chea, Son Arun, asked Chhaom Se if he ever killed detainees, the Witness’ duty counsel intervened, claiming a response might incriminate the Witness. The President allowed the Witness to reserve his right not to answer the question, and also reminded the Parties that such events at the Security Center were not the main focus of the hearing.

4. Witness Demeanor and Credibility

Although the Witness was largely forthcoming and honest in his responses, there were a few instances in which he opted not to respond to questions, and this may have undermined his credibility. On one occasion, Vercken asked him to confirm a statement he made during his testimony on 11 January 2013 concerning the list of “Seven Super-Traitors” of the Lon Nol regime.⁸ Even after the transcript of the January hearing was read out to him, the Witness denied having made the statement. On another occasion, when Vercken asked how he was selected for a promotion to chief of a military unit in 1971, Chhaom Se responded, “[I]n order to save time, I cannot answer this question. Sorry.”⁹ It was unclear whether the Witness was attempting to avoid answering the question or was merely reluctant to repeat himself, having already responded to the same question posed by Chet Vanly. Nevertheless the President intervened, reminding the Witness of his duty to truthfully answer all questions, unless a response would incriminate him.

B. François Ponchaud’s Testimony

On Tuesday, witness François Ponchaud (TCW-536) commenced his testimony. Ponchaud testified that he had lived in Cambodia for over 47 years, experiencing both the King Norodom Sihanouk and Lon Nol regimes. After witnessing the fall of Phnom Penh on 17 April 1975, he took refuge in the French embassy. On 7 May 1975, he was one of the last foreigners deported from Cambodia. He testified from Tuesday to Thursday in relation to the situation in Cambodia between 1970 and 1975, the events of 17 April 1975 and a number of interviews he conducted with Cambodian refugees between 1975 and 1976.¹⁰

1. Situation in Cambodia from 1970 to 1975

Ponchaud emphasized a desire to give his “own version of the KR.” He mentioned that, in the beginning, the KR “provided some form of hope for the Cambodian people.” He described the hardship experienced by the Cambodian people prior to 1975, both under the Lon Nol and King Norodom Sihanouk regimes. The Witness also relayed a number of reports of corruption and cruelty under both regimes. He testified about a revolt in 1967 against the Sihanouk government, after the government had initiated a land grab to pave the way for a sugar factory in Samlaut. Another incident he described involved Lon Nol soldiers bombing Skun and killing about 60 unarmed demonstrators in 1970, after King Norodom Sihanouk had been ousted. Referring to widespread corruption in the Sihanouk regime, the Witness gave an account of how Khieu Samphan, dubbed as “Mr. Clean” at the time, had once been stripped naked in front of the National Assembly by the government’s police. Ponchaud heard that the Accused, who at the time was the State Secretary for Trade, was subjected to the treatment for refusing to take a bribe. However, when questioned by Judge Lavergne on the issue of corruption during the period preceding DK, Ponchaud conceded that, although the corruption during Lon Nol’s regime was rampant, it was better than in present day Cambodia.

Notably, throughout his testimony, Ponchaud repeatedly underlined the pivotal role that the American bombings and policies during the Indochina war played in the KR's rise to power. On several occasions, the Witness stressed that Henry Kissinger should have been on trial for the bombings, which he estimated killed about 40,000 people and "terrified and traumatized" the Cambodian people. Ponchaud described how Cambodia experienced two phases of bombings by the "American killers." Phase one involved approximately one million tons of bombs dropped on the Eastern part of Cambodia in 1970, and the release of agent orange that destroyed rubber plantations, killed civilians, and still results in the birth of disfigured babies today. He also made a specific reference to the killing and raping of civilians in O'Raing Ov District by South Vietnamese and American troops on 1 May 1970, which he believed gave the people "no choice" but to join the KR. The second phase lasted from 6 February to 15 August 1973 and involved US carpet bombing across Cambodia. The Witness stated that it was after this period that people from the countryside began flocking to the city seeking refuge and food. He estimated that by April 1975 there were between two and three million people in Phnom Penh. Koppe asked the Witness about the effect of food shortages prior to April 1975. Ponchaud replied that there were "total and utter shortages across the board," in addition to a lack of health services in the country.

Ponchaud recalled that, as early as 1973, the KR had been helping the Cambodian people cultivate rice. Ponchaud believed that the Cambodian people supported the KR, despite hearing accounts of cruelty and "bad deeds," due to the comparative barbarity of the Lon Nol regime and the people's expectation that the KR would treat them better. He did recall hearing accounts of KR cruelty and atrocities in the liberated zones of Kampong Thom and Kampong Cham. This included the evacuation of people from "liberated" areas, destruction of property, and killing of officials. However, along with many Cambodians, he had presumed the acts formed part of KR war tactics and would cease upon victory.

2. Events on 17 April 1975

The Witness stated that, prior to the fall of Phnom Penh, he had been working with refugees to grow vegetables on the outskirts of the city. On 13 April 1975, he saw Phnom Penh was being bombed or fired upon from all directions, and he learned that the KR would soon capture the city. On 16 April 1975, he had moved from the church commune office to Hotel le Phnom, which was declared a military free zone by the Red Cross, and served as an international site for refugees. There he worked as a Khmer-French translator and assisted with the effort to disarm people seeking refuge. On the evening of 16 April 1975, he recalled hearing fighting and gunfire surrounding the vicinity of Phnom Penh. While traveling between Hotel le Phnom and his church commune office, he saw the bodies of seven people killed by a bomb near his house. The next day, he saw tanks rolling into Phnom Penh firing shells, after which some Lon Nol soldiers surrendered. He noted the mistaken belief held by some Cambodians and journalists that the soldiers who first entered Phnom Penh that day were KR soldiers. In fact, he testified these soldiers were Lon Nol soldiers who had surrendered. By 10:00 am, the KR had captured the whole city, and Lon Nol soldiers were defeated or had surrendered. According to his recollection, gunshots ceased at this point, and complete silence fell over the city.

3. Evacuation from Phnom Penh

On the morning of 17 April 1975 at about 11:00 am, Ponchaud witnessed an "unspeakable event," seeing sick and crippled people "crawling like worms" out of the city near his house.¹¹ When questioned further about this event by de Wilde d'Estmael, Ponchaud explained that he had heard from a doctor that sick or disabled persons in hospitals were being executed if they refused to leave. He further testified that he personally felt "shame" at having refused to allow a disabled man to stay with him, although Ponchaud had refused out of fear that he

and the disabled man might be executed if found. Around midday, he heard that certain groups, specifically the Cham people, had been expelled from the city.

According to the Witness' recollection, at approximately 2:00 pm KR soldiers in black clothes announced that everyone has to leave the city because the Americans would be bombing Phnom Penh. KR soldiers urged the city dwellers to not bring anything with them because they would be back in three or four days. The Witness believed that, because many people had in fact fled to Phnom Penh from the provinces to escape the carpet bombs, people were convinced they had to leave the city to escape further bombings. Ponchaud recounted watching between 200 and 300 people walking in slow motion down Monivong Boulevard out of the city. By 6:00 pm, the Witness did not see any more civilians in Phnom Penh. On the morning of 18 April 1975, Ponchaud drove a group of ten KR soldiers who had stayed overnight in his house to the train station. On the way, the soldiers broke down doors of houses and took property they found there.

In response to questioning by Vercken, Ponchaud elaborated on his belief that the evacuation was not an act of vengeance by the peasants against the city people, but rather motivated by an idea to create a new society without cities. Although he confirmed that there were problems with food supply given the large number of people who had come to Phnom Penh from the countryside, he did not seem to share the opinion that this was the primary reason why the capital city was evacuated, emphasizing that "the fundamental reason to evacuate the cities was ideological."¹² When asked how the KR treated people during the evacuation, Ponchaud stated that civilians appeared to be frightened and sad to be leaving the city, but he did not witness any mistreatment. He noted that the KR did not need to use any physical coercion against civilians, as psychological pressure and its "fierce eye" was sufficient to compel people to follow directions.

4. The Period of Refuge at French Embassy

After describing the evacuation of Phnom Penh, Ponchaud recounted his time taking refuge at the French Embassy, where he stayed alongside 500 other foreigners, including Americans, some of whom he categorized as known CIA agents, South-Vietnamese, French, and Laotians. There were reportedly an additional 500 Cambodians at the Embassy, including soldiers of the former regimes. Another 500 Pakistani nationals arrived later, according to Ponchaud. In response to questioning by Vercken on propaganda and ethnical thoroughness within the KR troops, Ponchaud testified that the KR stuck to a very moral line. He recalled seeing young KR cadres of 13 or 14 years of age who were watching over the French Embassy recite the twelve KR commandments every morning.

Ponchaud recalled two groups of people who were forced to leave the embassy. On 19 April 1975, KR soldiers arrived with AK47s and demanded that the embassy hand over the "Seven Super-Traitors." The following day, 25 Cambodian men married to French women were forced to leave the embassy (although Cambodian women who had married French men were permitted to stay). In response to probing by Prosecutor Dararasmey Chan, Ponchaud said that no one was forced to leave at gunpoint as far as he could remember. However, he added that people were so afraid that they would do whatever the KR asked them. He said he did not know what happened to those people, but later learned that they were either executed or sent to the border. He also recalled learning from a Khmer chemist that some of the people had been taken to the Old Stadium and were processed according to three groups—military personnel, civil servants, and other people. The high-ranking officials and officers were then taken away by truck.

On 7 May 1975, as part of the second group to leave the French embassy, Ponchaud was escorted by the KR in trucks to the border of Cambodia and Thailand via National Road 4

through Kampong Speu, Kampong Chhnang, Pursat, and Battambang to the Poipet border. Ponchaud recalled telling the KR he did not want to leave and wished to “live in Cambodia until he died.” The KR informed him that they could not be responsible for his safety, and that once the country was “cleaned-up” he would be warmly welcomed back. Ponchaud testified that at the time he already understood the phrase “cleaned-up” to mean purging officials of the previous regime from the Khmer Republic administration. He recalled leaving the country easily, and he commented that the KR were very “courteous” to foreigners. During the journey to the border, he saw smoke and fire coming from fields and some villages, but he was surprised not to see a single soul on the journey.

5. Accounts from Cambodian Refugees and DK Radio

After leaving Cambodia, Ponchaud conducted 94 interviews with Cambodian refugees on the Thai border, and subsequently in France in 1975 and 1976. These formed the basis for his book, “Cambodia: Year Zero”. In his testimony, he recounted hearing stories from four refugees he interviewed who claimed to have survived the killing of 380 soldiers in Phnom Thipdey, after the KR had lured the group to the mountain and then gunned them down. The Witness believed the accounts to be true, as two of the four witnesses had reported walking in the area and seeing dead bodies and skeletons on different occasions. He also referred to statements made by refugees about the “prison without walls,” where the people “worked days and nights without thinking of being tired or the suffering they endured.”¹³ He added that the KR referred to these places as “worksites.”

In another interview Ponchaud conducted at a refugee camp in 1976, a former helicopter pilot, Lieutenant Pich Lim Kuon, had recounted transporting the five KR leaders including Khieu Samphan or “Comrade Hem.” Vercken challenged the veracity of the interview by quoting a second interview conducted by the French Ambassador in 1976, wherein Lieutenant Kuon stated that Khieu Samphan “did not belong to the first tier of leaders.” This had led the Ambassador to conclude that Khieu Samphan’s position, as Head of State, was generally honorary in nature. The Witness simply reiterated that the only information Lieutenant Kuon had provided to him was that Khieu Samphan was among the leaders of DK, and that he had been known as Comrade Hem.

In relation to the second evacuation of the population, the Witness stated that refugee accounts reflected more barbaric treatment. Analogizing the situation with the Nazis’ treatment of Jews in Germany, Ponchaud stated that people were transported by train from Takeo Province to Phnom Penh, and then all the way to Phnom Thipdey in wagons packed full of people with no food, no water, and no place to release their bowels.

According to Ponchaud, at first he did not believe the accounts of refugees, finding their stories of working day and night “beyond anyone’s imagination.”¹⁴ He started listening to broadcasts from DK radio in order to get a full account of what was happening inside the country. He recalled hearing slogans broadcast over the radio proclaiming, “keeping you is no gain, losing you is no loss,” “killing a person by mistake is better than having him released by mistake,” “what is infected must be cut out”, and “what is rotten must be removed.”¹⁵ When asked by de Wilde d’Estmael what he thought these meant, Ponchaud said they related to Angkar’s idea that pure people should not possess their own thoughts, and should rather devote themselves to the plan of Angkar and the interest of the nation. He noted that the language used by Angkar was different from before, and people had to understand the new way of speaking in order to avoid being eliminated.

In further testimony about the interviews he conducted, Ponchaud reported hearing accounts from monks forced to leave the monkhood, and women who committed suicide after being forced to marry handicapped KR soldiers. CPLCL Elisabeth Simonneau-Fort questioned

Ponchaud about comments he had made to the French magazine *Le Monde* in 1976 about a division between the “old people” (those liberated before 1975) and the “new people” (those liberated after 17 April 1975) who were considered “prisoners of war and have no rights whatsoever.” Ponchaud testified that his description of this division was based on the accounts he collected from refugees.¹⁶

Vercken questioned the Witness about documents he had sent to the OCIJ, where he described hearing “only silence” on the DK radio in relation to Kieu Samphan. Ponchaud confirmed this, and added that Khieu Samphan was not brother number. In fact, according to the Witness, Khieu Samphan “was even behind Ieng Sary in the ordering.”¹⁷ Vercken also probed the Witness to explain whether the unfriendly treatment and killing of Cambodian refugees by Thai authorities was something that might have had an influence on the refugee accounts he documented. Ponchaud responded that, even taking into account the political context of the refugees, he was convinced they were telling the truth. The Witness rejected allegations made by Gareth Porter that the refugees Ponchaud spoke to had been deliberately trying to blacken the regime. According to Ponchaud, he had come up with a “scientific form of finding”¹⁸ the truth by listening attentively and cautiously to refugee accounts, while also listening to radio broadcasts for corroboration. Ponchaud did confirm, when pressed by Vercken, that general instructions given by the KR were sometimes applied literally by frustrated, ignorant and low-ranking cadre who had been marginalized by the former regime. In these instances, Ponchaud confirmed that he believed cooperative chiefs were “most responsible in certain ways for the[se] massacres,” as they had “essentially sent people to their death.”¹⁹

Like Vercken, defense counsel for Nuon Chea, Victor Koppe challenged the veracity of some of the Witness’ interviews. Counsel quoted Michael Vickery’s criticism that the selection of interviews included very few from the peasant class, and failed to take into account differing interpretations of Angkar directives across the various sectors in Cambodia. Ponchaud defended his interview selection vigorously, stating that refugees had been chosen randomly. He attributed the lower numbers of interviews from peasants to the fact that refugees arrived in waves—first the city dwellers and military, followed by the Chinese, followed by teachers and monks, intellectuals, then finally the peasants. He reminded the court that the ideology behind the revolution was to defend and support peasants. Accordingly, at the time his book was published, peasants were not yet among the refugees. In relation to criticism that he had generalized the treatment of people in Battambang and Phnom Penh to the whole of Cambodia, Ponchaud conceded that his book was based on information available before 1976, whereas the critic was able to draw distinctions between sectors based on information collected after this time.

Koppe concluded his questioning by probing the Witness about statements he had previously made to the OCIJ, describing the killing of 2000 Vietnamese by Lon Nol soldiers as “genocide,” despite the fact that he explicitly declined to apply that term to the KR treatment of Christians, Buddhists and Cham. Ponchaud replied that he believed the Vietnamese were persecuted at the time because they were “Yuong,” whereas Christians and Buddhists were not “persecuted” under the KR, even though many did die under the KR. In relation to the Cham, he stated, “they were not persecuted, in any case, not until 1978, and for different reasons.”²⁰

6. Witness Demeanor and Credibility

Although the Witness appeared to be credible and consistently eager to provide detailed facts, there were a number of occasions when the Witness either did not answer the question asked, or provided lengthy historical and contextual analysis that was irrelevant. On numerous occasions over the three days he testified, the Chamber interrupted the Witness

and counsels had to reminding him to be concise and not elaborate on irrelevant issues. The Witness also demonstrated a persistent desire to give his opinion throughout his testimony. On the final day of questioning, this culminated in his request for permission to “shed a bit of light” on the guilt of the Accused Khieu Samphan. The President promptly refused to allow the Witness to expound upon this topic.²¹

III. LEGAL AND PROCEDURAL ISSUES

A number of recurring legal and procedural issues arose once again this week, particularly regarding hearsay evidence, opinion/speculation from a Witness, and questions falling outside the scope of Case 002/01. During Chhaom Se’s testimony, the Chamber also once again reaffirmed the right of a Witness to refuse to answer a question on grounds of possible self-incrimination. On the final day of proceedings this week, the Chamber heard arguments from the Defense and Prosecution about Khieu Samphan’s application for provisional release based on new evidence the Khieu Samphan Defense sought to have admitted.

A. Request for Written Reasoned Decision on the Severance of Case 002

At the start of week’s proceedings, Vercken objected to the continuation of proceedings in the absence of the Trial Chamber’s long-awaited written decision on the severance of Case 002/01. Prosecutor de Wilde d’Estmael also requested that the Trial Chamber confirm if parties were to proceed on the basis of the paragraphs of the Closing Order listed in the annulled decision as relevant for Case 002/01. The President gave no indication when the written decision would be issued, but confirmed that the paragraphs of the Closing Order relevant to the scope of Case 002/01 would be identical to those listed in the Severance Order annulled by the SCC.²²

B. Examination Practices and Standards

1. Questions outside the scope of Case 002/01

Parties continued to raise objections this week to questioning they argued was irrelevant to the scope of Case 002/01. On Monday, during the Prosecution’s questioning of Chhaom Se, for example, Koppe objected to a number of questions asking a Witness to confirm whether women and children were amongst the Jarai people brought to Au Kangseng. Koppe argued that the identity of those arrested was irrelevant to military structure, and therefore outside the scope of Case 002/01. de Wilde d’Estmael defended his line of questioning, claiming that he was merely attempting to establish whether the Witness referred to the same group of Jarai people mentioned in documents on the case file. The President overruled the Defense objection and allowed the question.

2. Objection on opinion evidence and speculation from Witness

Defense Counsel reminded Ponchaud of his status as a Witness before the Trial Chamber on a number of occasions throughout his testimony, after Ponchaud repeatedly provided his opinion in response to questioning by both the Judges and the Prosecution. On Tuesday, questions from Judge Lavergne asking the Witness to give his opinion on the “general sentiment of the Cambodian population” prompted Defense counsel Koppe to remind the Chamber that Ponchaud had been summoned as a Witness, not an expert. In response, de Wilde d’Estmael claimed that the Witness could be described as an “analyst” on account of his experience in Cambodia and the research he had conducted. Koppe retorted that “analyst” had no legal meaning at the ECCC, and Ponchaud could either be a “witness” or an “expert.” Following a conference of the Trial Chamber judges, Judge Cartwright confirmed that the Witness had indeed been called as a regular witness, not an expert. However, she

added, it was up to the Trial Chamber to determine relevance of questions and their probative value. The same objection was raised again by both Defense teams in relation to further questions from Judge Lavergne asking the Witness to provide his opinion on documents submitted to the United Nations about Cambodia. The President overruled the Defense objection stating that, “[T]he questions are put by the Bench, and finally, it is the Bench that will examine or analyze the probative value of the testimony.”²³ However on Wednesday, in a rare event, the Chamber sustained an objection raised by counsel Koppe in relation to the Prosecution’s attempt to elicit the Witness’ opinion on whether a “reasonable observer” would conclude that the evacuation of the disabled, vulnerable, sick, etc. would expose them to a high risk of death.²⁴

3. Objection on hearsay evidence from witness

Defense raised a number of objections to hearsay evidence over the course of the week, particularly in relation to the probative value of a number of interviews the Witness had collected from Cambodian refugees. On Wednesday, Vercken objected to testimony provided by the Witness that implied that he had seen evidence of KR purges personally, when in fact he was merely relaying accounts he had heard from refugees he interviewed. Counsel Koppe, joining Vercken’s objection, added that the evidence was “legally called double hearsay,” which called into question the probative value of the evidence.²⁵ The Prosecution responded that the accounts could not be “double hearsay”, as they were taken from eyewitnesses who had relayed the information directly to the Witness. However preempting a ruling from the Chamber, the Prosecutor agreed to ensure his questions clarified whether the accounts of the Witness were direct accounts.

C. Right of witness not to self-incriminate

Witness Chhaom Se invoked his right not to answer questions that might tend to incriminate him, after counsel for Nuon Chea, Son Arun, asked the Witness about whether he had killed detainees at Au Kanseng,

D. OCP’s Objection to Counsel for Nuon Chea’s Rule 87.4 Submission²⁶

On Thursday afternoon, prior to the start of the hearing on Khieu Samphan’s request for provisional release, the Chamber refused to allow both the Prosecution and Defense to rely on documents intended to support arguments during the hearing. Pursuant to IR 87.4, The Khieu Samphan Defense attempted to admit into evidence excerpts from a book authored by former-OCIJ Judge, Marcel Le Monde. Prosecutor Tarik Abdulhak objected to the application on grounds that it had been filed the same day, in violation of the Trial Chamber memorandum issued the previous day requiring all such applications to be filed at least two weeks prior to intended use.²⁷ Vercken responded that he had received lengthy scientific research documents from the Prosecution during the lunch break, which the OCP intended to rely on during the hearing. Abdulhak defended his action by arguing that they had provided the documents to the Defense as a courtesy because the Prosecution had not been permitted to file a written response in relation to Khieu Samphan’s application for provisional release. Following a long discussion at the bench, Judge Cartwright stated that the Trial Chamber had not been aware of the Defense application until it was raised by the Prosecution at the beginning of the session. Accordingly, the Trial Chamber advised the parties that neither party could rely on the material until the Chamber had time to properly consider both matters.

E. Hearing on Khieu Samphan's Request for Release on Bail

As scheduled, the adversarial hearing on Khieu Samphan's request for provisional release commenced on Thursday afternoon, concluding with an assurance from the Trial Chamber that it would examine the submissions and render a decision in due course.²⁸

Vercken raised a number of points in support of the application, including the effect of the severance, which he argued made it impossible to foretell when the trial against his client would end. He also stressed the five years and four months his client had been incarcerated—a fact which, he argued, was compounded by the ECCC's decision to prioritize Case 001.²⁹ Counsel denied that his client was likely to abscond. He reminded the court that his client voluntarily chose to remain in Phnom Penh following the establishment of the ECCC, despite knowing he might be prosecuted. Vercken also raised the adverse effects of prolonged incarceration on the mental and physical health of his client, adding that his family had agreed to take care of him financially and otherwise at their home in Phnom Penh. Addressing the concern that Khieu Samphan's release might incite public disorder, Vercken recalled the findings of studies showing that few Cambodian people actually knew details of the trial, and would therefore be unlikely to react aggressively.³⁰ Counsel also addressed potential security risks for his client, calling the attack against his client in 1991 "a politically motivated move" which did not signal future attacks. He also relayed his clients' openness to any condition imposed by the Chamber, which was echoed by Khieu Samphan who briefly requested his release.³¹

Prosecutor Abdulhak argued that the conditions set out in Rule 63.3B of the IRs had already been satisfied, justifying Khieu Samphan's continued detention.³² Addressing each element, Abdulhak claimed that there was still a risk the Accused would interfere with witnesses. He argued this was supported by Sa Siek who, during her testimony as a witness last year, confirmed that Khieu Samphan's wife had visited her and inquired about her interview with the OCIJ.³³ In response to this point, Vercken later clarified that Witness Sa Siek had also informed the Chamber that Khieu Samphan's wife encouraged her to tell the truth. Abdulhak also argued that detention was still necessary to protect the Accused, referring to lingering vengeance in Cambodian society, and an increased risk of attack should he travel from home to court daily.³⁴ Conceding that the 1991 attack against Khieu Samphan may have been politically motivated, Abdulhak highlighted that it nonetheless quickly grew into a riot involving 10,000 people.³⁵ The OCP also supported the SCCs opinion that Khieu Samphan was a flight risk,³⁶ highlighting statements he made to the press indicating lack of regard for the ECCC proceedings.³⁷ Vercken refuted this in rebuttal, and raised a further interview given to the Voice of America where Khieu Samphan expressed a willingness to be summoned by ECCC.³⁸

Addressing the Defense arguments on unforeseeability and trial delay, Abdulhak argued the jurisprudence from the European Court of Human Rights (**ECtHR**) cited by the Defense concerned domestic cases of pre-trial detention at the investigation stage, and were therefore irrelevant.³⁹ Vercken subsequently refuted this, arguing that the ECtHR decisions referred to "the judgment" at the trial stage, and were therefore relevant.⁴⁰ Adding that the Chamber had proceeded as expeditiously as possible considering the complexity of the case, Abdulhak also cited the Chamber's new severance order as evidence that the proceedings' end was not unforeseen.⁴¹ Furthermore, in comparison with other international tribunals, Abdulhak argued that the period of detention was not extraordinary.⁴² In relation to Vercken's allegation that the Accused's detention had been extended because of the OCIJ's decision to pursue Case 001 first, Abdulhak emphasized that this line of argument stemmed from Marcel Le Monde's book, which he had not had an opportunity to examine (See section III.D). However, he pointed out that many Case 001 documents were relevant to the Case 002 investigation.

IV. TRIAL MANAGEMENT

This week saw the Chamber conclude the testimony of both scheduled witnesses, and hear arguments in relation to Khieu Samphan's application for provisional release. Notably mindful of time constraints, the Court proceeded efficiently, although translation and technical issues caused some difficulties, particularly during Ponchaud's testimony (see section IV.D).

A. Attendance

Nuon Chea's participated in the proceedings from the holding cell all week due to continuing health concerns. Khieu Samphan was present in the courtroom during all sessions.

Civil Party Attendance: Approximately 30 Civil Parties (including Muslim minorities) from different provinces attended the proceedings daily, either in the courtroom or the public gallery.

Parties Attendance: All Parties were properly represented during the week.

Attendance by the Public:

DATE	MORNING	AFTERNOON
Monday 8/4/2013	<ul style="list-style-type: none">300 villagers from Borey Cholsar district, Takeo province15 foreign observers	<ul style="list-style-type: none">200 villagers from Borey Cholsar district, Takeo province8 foreign observers
Tuesday 9/4/2013	<ul style="list-style-type: none">320 villagers from Borey Cholsar district, Takeo province17 foreign observers	<ul style="list-style-type: none">100 villagers from Borey Cholsar district, Takeo province6 foreigners
Wednesday 10/4/2013	<ul style="list-style-type: none">350 students from Touk Meas High School, Kampot province13 foreign observers	<ul style="list-style-type: none">300 students from Touk Meas High School, Kampot province10 foreign observers
Thursday 11/4/2013	<ul style="list-style-type: none">200 students from Royal University of Agriculture, Cambodia)150 Government Youth Union in from different provinces30 Cambodian scouts from Phnom Penh6 foreign observers	<ul style="list-style-type: none">4 foreign observers

B. Time Management

This week, the Court held proceedings from Monday to Thursday. Despite minor discussions concerning the amount of time allocated to the OCP and Defense, proceedings concluded according to schedule.

C. Translation and Technical Issues

Some minor audio-video technical issues occurred during the week, however they were rectified quickly.⁴³ Interpretation issues also arose throughout the week, however they were most prominent during Ponchaud's testimony.⁴⁴ Ponchaud's alternation between French and Khmer, in addition to a tendency to neglect to turn his microphone on before speaking rapidly, caused significant difficulties for interpreters. At the start of Ponchaud's testimony, the President warned the witness that although he was free to choose whichever language he wished to use for testimony, without discrimination, to avoid confusing the translation

services, he would not be permitted to alternate between languages. Throughout the first day of his testimony, the Witness consistently spoke Khmer. However, on several occasions, hearing the translation of his words from Khmer into French, the Witness became visibly frustrated and declared that he had been misquoted. From Wednesday, he began alternating between languages, and as a result, increasing portions of time were spent clarifying dates, facts, and responses Ponchaud provided that did not appear to accord with the question posed. On Wednesday afternoon, after repeated attempts to clarify an answer, Vercken asked the Witness if he could please respond in French, stating, “you know what you are saying but you don’t know what I’m hearing, and what I’m hearing does not make any sense.”⁴⁵ Finally, on the last day of his testimony, despite expressing reservations that he would appear to be supporting the defense if he testified in French, Ponchaud completed his testimony in his native language. This appeared to speed up the questions and minimize confusion in his testimony, although by this stage only two sessions remained for questioning.

D. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS IN SESSION
Monday 08/04/13	9:07	10:41-11:13	12:03-13:30	14:39-15:01	15:47	4 hours and 19 minutes
Tuesday 09/04/13	9:08	10:33-10:56	12:04-13:43	14:41-15:03	16:11	4 hours and 39 minutes
Wednesday 10/04/13	9:03	10:31-10:54	12:08-14:43	14:43-15:05	16:01	4 hours and 48 minutes
Thursday 11/04/13	9:03	10:29-10:55	11:58-13:35	14:48-15:04	16:05	4 hours and 43 minutes
Average number of hours in session				4 hours 37 minutes		
Total number of hours this week				18 hours 29 minutes		
Total number of hours, days, weeks at trial				707 hours 27 minutes		
164 TRIAL DAYS OVER 52 WEEKS						

Unless specified otherwise,

- the documents cited in this report pertain to *The Case of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan* before the ECCC;
- the quotes are based on the personal notes of the trial monitors during the proceedings;
- the figures in the *Public Attendance* section of the report are only approximations; and
- photos are courtesy of the ECCC.

Glossary of Terms

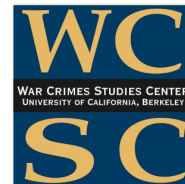
Case 001	<i>The Case of Kaing Guek Eav alias “Duch” (Case No. 001/18-07-2007-ECCC)</i>
Case 002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan (Case No. 002/19-09-2007-ECCC)</i>
CPC	Code of Criminal Procedure of the Kingdom of Cambodia (2007)
CPK	Communist Party of Kampuchea
CPLCL	Civil Party Lead Co-Lawyer
DK	Democratic Kampuchea
ECCC	Extraordinary Chambers in the Courts of Cambodia (also referred to as the Khmer Rouge Tribunal or “KRT”)
ECCC Law	Law on the Establishment of the ECCC, as amended (2004)
ERN	Evidence Reference Number (the page number of each piece of documentary evidence in the Case File)
FUNK	National United Front of Kampuchea
GRUNK	Royal Government of National Union of Kampuchea
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IR	Internal Rules of the ECCC Rev. 8 (2011)
KR	Khmer Rouge
OCIJ	Office of the Co-Investigating Judges
OCP	Office of the Co-Prosecutors of the ECCC
RAK	Revolutionary Army of Kampuchea
VSS	Victims Support Section
WESU	Witness and Expert Support Unit



EAST-WEST
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AIJI TRIAL MONITORING



^{*} AIJI is a collaborative project between the East-West Center, in Honolulu, and the War Crimes Studies Center, University of California, Berkeley. Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in South-East Asia. The Program is funded by the Open Society Foundation, the Foreign Commonwealth Office of the British Embassy in Phnom Penh, and the Embassy of Switzerland in Bangkok.

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¹ Trial Chamber. Transcript of Trial Proceedings (8 April 2013). E1/177.1 [hereinafter **8 APRIL TRANSCRIPT**]. Lines 16-17. 28.

² See CASE 002 KRT TRIAL MONITOR, Issue 48, Hearing on Evidence Week 43 (8-11 January 2013), [hereinafter **ISSUE 48**], II.C.

³ Chhaom Se was examined in the following order: International Prosecutor Vincent de Wilde d'Estmael; National Civil Parties Lawyer Chhet Vanly; International Co-Lawyer for Nuon Chea, Victor Koppe; National Co-Lawyer for Nuon Chea, Son Arun; International Co-Lawyer for Khieu Samphan, Arthur Vercken.

⁴ 8 APRIL TRANSCRIPT. Lines 15-19. 38.

⁵ Ibid, lines 7-16. 43.

⁶ When Prosecutor de Wilde d'Estmael explained who Vy was, the French-to-English translation was inconsistent as to whether he was a soldier in the Northwest Zone or the Northeast Zone.

⁷ 8 APRIL TRANSCRIPT. Lines. 8-10. 23.

⁸ ISSUE 48, II.C.1

⁹ 8 APRIL TRANSCRIPT. Line 4. 73.

¹⁰ François Ponchaud was examined in the following order: President Nil Nonn; Judge Jean-Marc Lavergne; International Prosecutor Vincent de Wilde d'Estmael; National Prosecutor Dararasmey Chan; National Civil Party Lawyer Moch Sovannary; International Civil Party Lead Co-Lawyer Elisabeth Simonneau-Fort; National Co-Lawyer for Khieu Samphan, Kong Sam Onn; International Co-Lawyer for Khieu Samphan, Arthur Vercken; and International Co-Lawyer for Nuon Chea, Victor Koppe.

¹¹ Trial Chamber. Transcript of Trial Proceedings (9 April 2013). E1/178.1 [hereinafter **9 APRIL TRANSCRIPT**]. Lines 120-22. 22.

¹² Trial Chamber. Transcript of Trial Proceedings (10 April 2013). E1/179.1 [hereinafter **10 APRIL TRANSCRIPT**]. Lines 8-10. 23.

¹³ 10 APRIL TRANSCRIPT. Lines 1-3. 43.

¹⁴ Ibid, lines 17-18. 56.

¹⁵ Ibid, lines 1-7. 37.

¹⁶ Ibid, lines 7-8. 72.

¹⁷ Ibid, lines 24-25. 95.

¹⁸ Trial Chamber. Transcript of Trial Proceedings (11 April 2013). E1/180.1 [hereinafter **11 APRIL TRANSCRIPT**]. Line 17. 50.

¹⁹ 11 APRIL TRANSCRIPT. Lines 20-21. 19.

²⁰ Ibid, lines 8-10. 37.

²¹ Ibid, lines 6-9. 22.

²² See Trial Chamber. "List of Paragraphs and Portions of the Closing Order Relevant to Case 002/01 amended further to the Trial Chamber's Decision on IENG Thirith's Fitness to Stand Trial (E138) and the Trial Chamber's Decision on Co-Prosecutor's Request to Include Additional Crime Sites within the Scope of Trial In Case 002/01 (E163)" (8 October 2012). E124/7.3.

²³ 9 APRIL TRANSCRIPT. Lines 14-16. 99.

²⁴ 10 APRIL TRANSCRIPT. Lines 18-23. 17.

²⁵ Ibid, lines 1-7. 32.

²⁶ See Internal Rules of the Extraordinary Chambers In The Courts of Cambodia, Revision 8, as revised on 3 August 2011 [hereinafter **INTERNAL RULES**] Rule 87.4. The rule allows the introduction of new witnesses and evidence by the parties at the trial stage, subject to the Chamber's approval after measured against the standards in Rule 87.3 The Parties should also prove that the new evidence or testimony was not available prior to the trial stage. Rule 87.3. reserves the right for the Trial Chamber to deny any request for evidence or testimony if it is irrelevant or repetitious; impossible to obtain within a reasonable time; unsuitable to prove the facts it purports to prove; not allowed under the law; or intended to prolong proceedings or is frivolous.

²⁷ The Prosecutor cited Trial Chamber Memorandum with document number E276/2. Paragraph 2 of the document states, "[F]inally, parties must lodge a consolidated Internal Rule 87(4) request for all new documents intended for use during the testimony of a witness at least two weeks before his or her scheduled appearance (E218, para. 22)." See Trial Chamber. "Response to the Internal Rule 87(4) Requests of the Co-Prosecutors, Nuon Chea, and Khieu Samphan (E236/4/41, E265, E271, E276, E276/1). (10 April 2013). E276/2.

²⁸ The hearing was scheduled for adversarial debate on the application filed by the Khieu Samphan's Defense on 29 March 2013. See Lawyers for Mr. Khieu Samphan. "Application for Khieu Samphan's Immediate Release on Bail" (29 March 2013). E 275. [hereinafter **APPLICATION FOR RELEASE**].

²⁹ Vercken claimed that Khieu Samphan had been arrested at the same time with Kaing Gek Eav alias Duch, the Accused of Case 001, yet he was detained while the OCIJ was completing the Case 001 investigation.

³⁰ In the written submission, Khieu Samphan's Defense team cited research from Human Rights Center of University of California at Berkeley dated June 2011, allegedly showing that in 2010 only 11 per cent of the Cambodian population could name the Accused and only 16 per cent considered DK crimes as important. See **APPLICATION FOR RELEASE** para 35.

³¹ Upon questioning by Judge Cartwright, counsel Vercken clarified that the Accused could come to the Court either by his own means or by transportation provided by the Court. The counsel also stressed the indigence of the Accused to the Chamber referring to documentary evidence provided to the court. Khieu Samphan also took the floor, stating that he would be provided for by his children, he did not have a passport, and could go to the court by motorcycle with his wife.

³² **INTERNAL RULES** Rule 63.3.B on Provisional Detention provides that provisional detention may be imposed to i) prevent the Charged Person from exerting pressure on any witnesses or Victims, or prevent any collusion

between the Charged Person and accomplices of crimes falling within the jurisdiction of the ECCC; ii) preserve evidence or prevent the destruction of any evidence; iii) ensure the presence of the Charged Person during the proceedings; iv) protect the security of the Charged Person; or v) preserve public order.

³³ See CASE 002 KRT TRIAL MONITOR, Issue 32, Hearing on Evidence Week 43 (8-11 January 2013). Page 11

³⁴ The Prosecutor cited Document No. E50/3/1/1.1.4, a December 2010 study stating that approximately 40 per cent of the population still “harbor feelings of revenge towards the former Khmer Rouge and the Khmer Rouge leadership.”

³⁵ The International Prosecutor cited Document No. D29, Attachment 96, that provided an account of the incident. Further he described that in year 2000 Khieu Samphan made a statement recorded Document D29, Attachment 95, that he would only provide information on the Khmer Rouge if granted protection.

³⁶ Abdulhak cited paragraph 54 of the Supreme Court Decision, which states “[T]he reasons have less to do with the general risk of the Accused absconding in the face of the severity of potential penalty, and more to do with the risk of the Accused becoming unavailable for trial. Facts transpiring from the case file demonstrate that the trial in Case 002 is an enormous organizational and logistical undertaking involving four accused, most of whom have health problems, and numerous civil parties and multi-person legal teams. Even a single instance of an accused failing to appear before the court might undermine the prospect of arriving at the judgment within a reasonable time. The goal of speedy proceedings may be easily frustrated if the Accused goes into hiding, decides to disregard summons or even temporarily is prevented from attending a hearing.” See The Supreme Court Chamber. “Decision on Immediate Appeal by Khieu Samphan on Application for Release” (06 June 2013). E50/3/1/4.

³⁷ The International Prosecutor cited Khieu Samphan’s interviews in October 2007 (Document E3/583), November 2006 (Document E3/108) and an unspecified interview (D313.11.1).

³⁸ Counsel Vercken did not provide the date of the interview but identified the Document number as E3/588. Counsel Vercken also cited an article from “The Cambodia Daily”, (no document number provided) which he claimed stated that “Khieu Samphan was said to cooperate with the tribunal.”

³⁹ The International Prosecutor also cited some of the European Court of Human Rights cases relied on by the Khieu Samphan Defense Team in relation to the observation of human liberty, standards to ensure foreseeability and legal certainty, namely Case of Velichko v. Russia Judgment, ECHR, 15 January 2013 (“Velichko Case”), para. 67; Case of Tsitsiriggos v. Greece, Judgment, ECHR, 17 January 2012, paras. 47-48; Case of Tsarkov v. Russia, Judgment, ECHR, 16 July 2009 (“Tsarkov Case”). See **APPLICATION FOR RELEASE** para 17-19 and the accompanying footnotes.

⁴⁰ Arthur Vercken specifically referred to the European Court of Human Right’s decision, Soria Valderrama case of 26 January 2012.

⁴¹ See CASE 002 KRT TRIAL MONITOR, Issue 55, Hearing on Evidence Week 50 (25-29 March 2013).

⁴² International Prosecutor Abdulhak expounded before the Chamber that the OCP’s review showed that at the ICTY in more than 50 cases, the accused persons had been detained five years or longer and at the ICTR in at least 31 cases.

⁴³ For example, during the first session on Monday an audio system malfunction prevented sound from reaching the French interpreters. This occurred again on Thursday when Prosecutor Abdulhak reported hearing French in his receiver.

⁴⁴ For example, responding to questions from CPLCL Simonneau-Fort, Ponchaud’s response in Khmer of “2000 families” was incorrectly translated into English as “1000 families.”

⁴⁵ 10 APRIL TRANSCRIPT. Lines 7-9. 86.