

## **Khmer Rouge Court Hears Ieng Thirith Appeal** **Stuart White** **November 14, 2012**

Freed Khmer Rouge tribunal defendant Ieng Thirith appeared at an appeal hearing regarding the conditions of her release yesterday, providing judges with at-times inscrutable answers that seemed to reinforce a ruling that a future resumption of her trial was out of the question.

At the hearing before the Supreme Court Chamber, the prosecution argued that six conditions be imposed on the release of the dementia-stricken ex-social action minister – conditions that included weekly security checks, residence at a predetermined address and medical check-ups by court-appointed experts every six months.

The defence says such conditions constitute a violation of Thirith's rights, given the irreversibility of her disease and the impossibility of resuming her trial.

“We submit that the imposition of these measures strikes a reasonable balance between, on the one hand, the interest of the victims and the prosecution to see justice done, and on the other hand, the need to limit restrictions on Ieng Thirith's liberty,” said prosecutor Song Chorvoin.

Chorvoin argued that the Trial Chamber's decision to consider the restrictions only in the unlikely context of Thirith's involvement in a future trial was an “unduly narrow reading of the law”, noting that, even absent a trial, the restrictions would protect a “broader range of interests”, such as protecting witnesses, victims and the integrity of the proceedings.

The prosecutor went on to say that the crimes Thirith stands accused of “are some of the worst crimes known to humanity, and literally affected millions”.

Therefore, she added: “There is a compelling public interest in maintaining judicial control over the accused.”

Defence counsel Diana Ellis countered, saying that enacting restrictions that Thirith – who was released in September – was mentally incapable of understanding, violated her right to liberty and the presumption of innocence.

“It is entirely repugnant to a system of justice for there to be the imposition of conditions which can never be met through no fault of the individual concerned, which can then, if breached, be met by sanctions,” Ellis said, noting that “a court is brought into disrepute”

by such actions.

Clair Duffy, a tribunal monitor with the Open Society Justice Initiative, said that despite both parties acknowledging the unlikelihood of Thirith returning to the detention centre, the prosecution appealed because it “saw a point of contention” in the Trial Chamber’s ruling.

“I think they’re trying to recognise the extreme gravity of the crimes and this very remote possibility of a breakthrough in medical science [that would allow Thirith to return], no matter how remote.”

To all appearances, Thirith was incapable of comprehending the purpose of the hearing – let alone judicial restrictions.

Responding to a question about her readiness to appear in court at a later date, Thirith explained she might be unable to as she had “been in the forest, but my illness remains”.

Asked by Judge Agnieszka Klonowiecka-Milart if weekly security checks would be an imposition, Thirith launched into a tangent about her foreign neighbours.

And near the end of the hearing, Supreme Court chamber President Kong Srim offered the accused the opportunity to make a statement, prompting Thirith to wonder aloud, “who is the accused?”