

Witness Workaround for Sary Team, Prosecutors

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Ieng Sary's defence team came to an "understanding" with prosecutors and the Khmer Rouge tribunal trial chamber yesterday that will prevent the former Minister of Foreign Affairs' health concerns from severely delaying proceedings.

In a hearing that took place during yesterday's afternoon session, Ieng Sary co-counsel Michael Karnavas said that his client had agreed to waive his right to be present for the questioning of 18 witnesses whose testimony was not expected to include information directly pertaining to Sary's defence.

However, Karnavas said, if the witnesses' testimonies do unexpectedly relate to Sary's own conduct, rather than halt the proceedings, the defence would reserve the right call the witness back for cross-examination after a consultation with Sary.

"Of course, every witness is going to come here and say 'the leaders did this', or 'the upper echelon did that'," Karnavas said, explaining that he would only feel the need to recall witnesses whose testimonies pertained to specifically to his client's actions. "[These terms] will touch upon Mr Ieng Sary, but we just have to be realistic."

According to Karnavas, the witnesses the court can now hear should keep the tribunal busy until late December.

Co-prosecutor William Smith said his own "calculations indicate that this is correct", adding that there may be even more witnesses beyond those suggested by the defence who the court could hear in Sary's absence, enough even to "keep us occupied up to, and maybe a little beyond Christmas".

A few days ago, Sary – who has been hospitalised for weeks – withdrew his waiver for the testimony of witness TCW-428 after a new document was admitted in which he mentioned Sary explicitly.

But thanks to today's understanding, said Karnavas, that testimony can continue today as previously scheduled.

"Mr Ieng Sary is co-operating to the maximum to ensure that the proceedings are not delayed," he said after the hearing had ended. "Now we've reached an understanding, where if something unexpected pops up, we can deal with it without being disruptive."

Karnavas noted that the understanding does not extend to witnesses Sary does not waive, including expert Philip Short.

“Witnesses he’s not waiving, he’s not waiving full stop,” he said.