



Genocide trial of Khmer Rouge leaders likely delayed until 2012

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August 24, 2011

Court sources and observers in Cambodia say the genocide trial of four surviving Khmer Rouge is now likely to be delayed once again.

That follows an acknowledgment by the Khmer Rouge tribunal that one of the defendants requires psychiatric tests to determine her fitness to stand trial.

The court is no stranger to delay, but recent events have revealed yet another possible suspension in the proceedings against four surviving Khmer Rouge leaders.

Late last year, court officials were predicting that the trial for Case 002 would begin by mid-2011. But the recent confirmation that former social affairs minister Ieng Thirith needs a psychiatric assessment means it is now unlikely to start before January.

Court spokesman Lars Olsen says next week, the court will discuss recent medical reports examining the physical abilities of three defendants to stand trial. But the doctor who carried out those examinations has also recommended that Ieng Thirith have a psychiatric assessment.

“And this is what the Trial Chamber will in the very near future do, Olsen says. “They will appoint international and national psychiatric expertise to conduct a further assessment on Ieng Thirith’s fitness to stand trial.”

All of that will take time. It will likely be months before the psychiatric report is finalized, discussed and then ruled on by the tribunal. Because the court wants to try the defendants together, the case cannot start until Ieng Thirith is declared mentally fit or unfit to stand trial.

Anne Heindel, legal adviser at Phnom Penh-based genocide research organization DC-Cam, explains the legal principle behind being found unfit for trial.

“It’s not just a medical assessment,” Heindel says. “It’s the legal evaluation of a medical assessment. Can you participate in your defense? Can you instruct your counsel? Do you understand what your plea means? Do you understand what’s going on in the proceedings?”

If Ieng Thirith is found to be unfit for trial, Anne Heindel adds, that could mean a

temporary or even a permanent suspension of the case against her, depending on how she responds to treatment.

“The hope is always that with medical assistance somebody could then become fit for trial, and the trial could proceed at that point,” she says. “With mental illness, if that’s what it is, it’s obviously much less certain than with a physical ailment and harder to judge.”

The other former leaders facing trial are: Nuon Chea, who was deputy to the late Khmer Rouge leader Pol Pot; Khieu Samphan, the regime’s head of state; and Ieng Sary, the former foreign minister.

All four deny charges of genocide, war crimes and crimes against humanity. Court spokesman Lars Olsen says at this stage it is not possible to say when their trial will start.

“The Trial Chamber is trying the best to start the trial this year, but it’s not possible to schedule the start of the hearing of evidence before the fitness issue has been dealt with, and also some other preliminary objections,” says Olsen. “So we don’t know.”

Every delay reduces the chances for a successful trial because of the ages of the defendants. The youngest of them is 79 years old and the longer their trial drags on, the greater the chance that health problems could disrupt the proceedings.