

**Not so fast in Case 002**  
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**August 25, 2011**

Long-awaited testimony in the Khmer Rouge tribunal's Case 002 may have to wait until next year, while victims of the regime have urged the court to speed up its deliberations on the appeal of S-21 jailer Duch.

A number of legal issues need to be addressed before proceedings can begin in earnest against the four Khmer Rouge leaders in the second case.

The tribunal has scheduled hearings next week to determine whether two of the defendants – Brother No 2 Nuon Chea and former Khmer Rouge Social Action Minister Ieng Thirith – are fit for trial. It has also ordered Ieng Thirith to undergo a mental health exam, and said more hearings would be necessary to consider the results of the additional tests.

“It’s not possible for the Trial Chamber to schedule the start of the substantive trial before they have completed the fitness issue,” court spokesman Lars Olsen said yesterday. “And we don’t know when that will be.”

Anne Heindel, a legal advisor at the Documentation Centre of Cambodia, said it was “safe to say trial will not begin this year”, and noted that there would “likely” be rulings by both the court’s Trial Chamber and the Supreme Court Chamber on the fitness question.

Together with Nuon Chea and Ieng Thirith, former KR Foreign Minister Ieng Sary and head of state Khieu Samphan have been charged with offences including genocide and crimes against humanity for their roles in the deaths of between 1.7 and 2.2 million in Cambodia from 1975 to 1979.

A number of preliminary issues have been raised, including lists of witnesses and experts and Ieng Sary’s 1996 pardon and 1979 conviction in absentia for genocide.

Heindel said it would be up to the Trial Chamber to decide which issues must be addressed before substantive testimony in the trial can begin.

The court’s internal rules allow it to separate proceedings against defendants being tried in the same case in a situation in which one is declared unfit for trial or passes away, but Olsen said the Trial Chamber “has not given any indication that separation of the case is currently on their agenda”.

Heindel said that such a move for Ieng Thirith would be “unnecessarily time consuming if she is found fit for trial, but would likely be the next step if she is found unfit”.

Meanwhile, victims have written to the court urging its Supreme Court Chamber to issue a decision in the appeal of Kaing Guek Iev, alias Duch, who was convicted last year of crimes against humanity and grave breaches of the Geneva Conventions. Duch was given a 30-year sentence, commuted to 19 years for time already served.

“We have been waiting for the verdict in Case 001 from the Supreme [Court] Chamber for several months, but it has not come out and we’re concerned that it will continue to be prolonged,” Chum Mey, an 80-year-old survivor of Tuol Sleng prison, said yesterday.

“We are concerned that the sentence against Duch is unfair already, so it will give a bad example for Case 002.”

Heindel said she did not believe the Supreme Court has taken an “excessive” period of time in its Case 001 ruling in comparison to other international courts. “They are likely addressing other foundational legal issues – such as the exact character of the court as a hybrid national/international institution – that will impact not only the Duch verdict but also cases 002-004.”