

**BEFORE THE SUPREME COURT CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

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**URGENT REQUEST CONCERNING THE IMPACT ON APPEAL PROCEEDINGS OF
NUON CHEA'S DEATH PRIOR TO THE APPEAL JUDGEMENT**

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PART 1. ECCC LEGAL COMPENDIUM

1. Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea, 10 Aug 2001, with inclusion of amendments as promulgated on 27 Oct 2004 (ns/rkm/1004/006).
2. Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea, 6 Jun 2003 (entered into force 29 Apr 2005).
3. ECCC Internal Rules (Rev. 9), revised on 9 January 2015.

PART 2. ECCC FILINGS**I. CASE 001**

4. **F28**, ‘Appeals Judgement’, 3 Feb 2012.

II. CASE 002**A. DECISIONS AND JUDGEMENTS****1. Pre-Trial Chamber**

5. **D55/1/8**, ‘Decision on Nuon Chea’s Appeal against Order Refusing Request for Annulment’, 26 Aug 2008.

2. Trial Chamber

6. **E50/3/1/4**, ‘Decision on Immediate Appeal by Khieu Samphân on Application for Release’, 6 Jun 2011
7. **E138/1/10/1/5/7**, ‘Decision on Immediate Appeal against the Trial Chamber’s Order to Unconditionally Release the Accused Ieng Thirith’, 14 Dec 2012.
8. **E284/4/8**, ‘Decision on Immediate Appeals against Trial Chamber’s Second Decision on Severance of Case 002’, 25 Nov 2013.
9. **E301/9/1**, ‘Decision on Additional Severance of Case 002 and Scope of Case 002/02’, 4 Apr 2014.

10. **E301/9/1/1/3**, ‘Decision on Khieu Samphân’s Immediate Appeal against the Trial Chamber’s Decision on Additional Severance of Case 002 and Scope of Case 002/02’, 29 Jul 2014.
11. **E439/5**, ‘Decision on Reduction of the Scope of Case 002’, 27 Feb 2017.

3. Supreme Court Chamber

12. **F2/9**, ‘Decision on Pending Requests for Additional Evidence on Appeal and Related Matters – Disposition’, 21 Oct 2015

B. OTHER FILINGS

1. Nuon Chea

13. **E465/3/1**, ‘Nuon Chea’s Notice of Appeal against the Trial Judgement in Case 002/02’, 1 Jul 2019.
14. **F46**, ‘Nuon Chea’s Letter Authorising Designated Persons to Act on His Behalf in the Event of His Untimely Death Prior to the Completion of the Appeal Proceedings’, 18 Jul 2019.

2. Co-Prosecutors

15. **E465/2/1**, ‘Co-Prosecutors Notice of Appeal of the Trial Judgement in Case 002/02’, 21 Jun 2019.

PART 3. INTERNATIONAL JURISPRUDENCE

I. ICJ

16. *Case concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*, ICJ, ‘Judgement’, 5 Feb 1970 (**Attachment 3**), *Authority exceeding 10 pages*.

II. ICTY

17. *Prosecutor v. Furundžija*, IT-95-17/1-T, ‘Judgement’, 10 Dec 1998.
18. *Prosecutor v. Krajišnik*, IT-00-39-A, ‘Judgement’, 17 Mar 2009.

19. *Prosecutor v. Delić*, IT-04-83-A, ‘Formal Notification of Death and Motion for Continuation of the Appeal Proceedings’, 21 Apr 2010.
20. *Prosecutor v. Delić*, IT-04-83-A, ‘Response to Motion for Continuation of the Appeal Proceedings’, 28 Apr 2010.
21. *Prosecutor v. Delić*, IT-04-83-A, ‘Decision on the Outcome of the Proceedings’, 29 Jun 2010.
22. *Prosecutor v. Delić*, IT-04-83-R.1, ‘Decision on Defence Motion for Review’, 17 Dec 2013.

PART 4. HUMAN RIGHTS LAW AND JURISPRUDENCE

I. UNITED NATIONS TREATIES

23. International Covenant on Civil and Political Rights, General Assembly, UN Doc A/6316 (1966), 999 UNTS 171, 16 Dec 1966 (entered into force on 23 Mar 1976).

II. ECTHR JURISPRUDENCE

24. *Konstas v. Greece*, ECtHR, App. No. 53466/07, ‘Judgment (Extracts)’, 24 May 2011 (**Attachment 33**), *Authority exceeding 10 pages*.

PART 5. DOMESTIC JURISPRUDENCE AND CASE LAW

I. AUSTRALIA

25. Crimes (Appeal and Review) Act 2001 (NSW) (**Attachment 37**), *Authority exceeding 10 pages*.
26. *A reference by the Attorney General for the State of New South Wales under s. 77(1)(b) of the Crimes (Appeal and Review) Act 2001 re the conviction of Frederick Lincoln McDermott*, Australia, New South Wales Court of Criminal Appeal, [2013] NSWCCA 102 (6 May 2013) (**Attachment 11**), *Authority exceeding 10 pages*.

II. AZERBAIJAN

27. Criminal Procedure Code (**Attachment 28**), *Authority exceeding 10 pages*.

III. BELGIUM

28. Code d'Instruction Criminelle (**Attachment 6**), *Authority exceeding 10 pages*.
29. Cour de Cassation, Belgium, P951155N (17 Oct 1995) (**Attachment 7**).

IV. BOSNIA AND HERZEGOVINA

30. Criminal Procedure Code (**Attachment 10**), *Authority exceeding 10 pages*.

V. CAMBODIA

31. Code of Criminal Procedure (**Attachment 36**), *Authority exceeding 10 pages*.

VI. CANADA

32. Supreme Court Act (**Attachment 21**), *Authority exceeding 10 pages*.
33. *R. v. Jetté*, Canada, Quebec Court of Appeal, [1999] RJQ 2603 (18 Oct 1999) (**Attachment 22**), *Authority exceeding 10 pages*.
34. *R. v. Smith*, Canada, Supreme Court of Canada, [2004] 1 SCR 385 (4 Mar 2004) (**Attachment 23**), *Authority exceeding 10 pages*.

VII. CHINA (MAINLAND)

35. Criminal Procedure Law [2018 Amendment] (**Attachment 25**), *Authority exceeding 10 pages*.
36. Interpretation of the Supreme People's Court Concerning the Implementation of the Criminal Procedure Law (**Attachment 26**), *Authority exceeding 10 pages*.

VIII. CHINA (HONG KONG)

37. *HKSAR v. Cheng Chee-Tock Theodore*, China, Court of Final Appeal of the Hong Kong Special Administrative Region, FACC No. 7/2014 (25 Jun 2015) (**Attachment 24**).

IX. ENGLAND AND WALES

38. Criminal Appeal Act 1968 (**Attachment 14**), *Authority exceeding 10 pages*.

39. *R. v. Whelan*, England and Wales, Court of Appeal (Criminal Division), [1997] Crim. L.R. 659 (**Attachment 34**).

X. FRANCE

40. Code de procédure pénale (**Attachment 4**), *Authority exceeding 10 pages*.
41. Cour de Cassation, Chambre criminelle, France, No. 88-81.542 (8 Apr 1991) (**Attachment 5**).

XI. GERMANY

42. Code of Criminal Procedure (StPO) (**Attachment 8**), *Authority exceeding 10 pages*.
43. *Decision to Terminate the Appeal Proceedings Pursuant to Art.206(a) StPO following John Damanjuk's Death*, Germany, Munich Regional Court, LG München II, 1 Ks 115 Js 12496/08 (5 Apr 2012) (**Attachment 9**).

XII. ITALY

44. Criminal Procedure Code (**Attachment 27**), *Authority exceeding 10 pages*.
45. Constitution of the Italian Republic (**Attachment 32**), *Authority exceeding 10 pages*.

XIII. RUSSIA

46. Criminal Procedural Code (**Attachment 29**), *Authority exceeding 10 pages*.

XIV. SINGAPORE

47. Criminal Procedure Code 2010 (**Attachment 15**), *Authority exceeding 10 pages*.

XV. SWEDEN

48. Code of Judicial Procedure (**Attachment 30**), *Authority exceeding 10 pages*.

XVI. SWITZERLAND

49. Criminal Procedure Code (**Attachment 31**), *Authority exceeding 10 pages*.

XVII. UNITED STATES OF AMERICA

50. Federal Rules of Appellate Procedure (**Attachment 16**), *Authority exceeding 10 pages*.

51. *State v. Webb*, United States, Supreme Court of Washington, 219 P.3d 695 (29 Oct 2009) (**Attachment 17**).
52. *State v. McGettrick*, United States, Supreme Court of Ohio, 31 Ohio St. 3d 138 (24 Jun 1987) (**Attachment 18**).
53. *State v. Makaila*, United States, Supreme Court of Hawaii, 897 P.2d 967 (14 Jun 1995) (**Attachment 19**).
54. *State v. McDonald*, United States, Supreme Court of Wisconsin, 144 Wis. 2d 531 (16 Jun 1988) (**Attachment 20**), *Authority exceeding 10 pages*.

PART 6. ACADEMIC ARTICLES

55. Sabrina M. Bierer, *The Importance of Being Earned: How Abatement After Death Collaterally Harms Insurers, Families, and Society at Large*, 78 Brook. L. Rev. (2013) (**Attachment 12**), *Authority exceeding 10 pages*.
56. Michael Bohlander, *Death of an Appellant – The Termination of the Appellate Proceedings in the Case of Rasim Delić at the ICTY*, 21 Crim. L. Forum 495 (2010) (**Attachment 38**).
57. Timothy A. Razel, *Dying To Get Away With It: How the Abatement Doctrine Thwarts Justice – And What Should Be Done Instead*, 75 Fordham L. Rev. 2193 (2007) (**Attachment 13**), *Authority exceeding 10 pages*.

PART 7. MISCELLANEOUS

58. Letter from Nuon Chea, Designated Persons to Act on His Behalf in the Event of His Untimely Death Prior to the Completion of the Appeal Proceedings, 12 Jul 2019 (**Public (Redacted) Attachment 1**).
59. UN Doc. A/53/850, S/1999/231, 16 Mar 1999, Annex, ‘Report of the Group of Experts for Cambodia Established pursuant to General Assembly Resolution 52/135’, 18 Feb 1999 (**Attachment 2**), *Authority exceeding 10 pages*.
60. UN Doc. S/25704, ‘Report of the Secretary-General pursuant to Paragraph 2 of Security Council Resolution 808 (1993)’, 3 May 1993 (**Attachment 35**), *Authority exceeding 10 pages*.