

**BEFORE THE SUPREME COURT CHAMBER****EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA****FILING DETAILS****Case No:** 002/19-09-2007-ECCC-TC/SC ( ) **Party Filing:** The Defence for IENG Sary**Filed to:** The Supreme Court Chamber**Original language:** ENGLISH**Date of document:** 19 November 2012**CLASSIFICATION****Classification of the document suggested by the filing party:** PUBLIC**Classification by OCIJ or Chamber:** សាធារណៈ/Public**Classification Status:****Review of Interim Classification:****Records Officer Name:****Signature:****IENG SARY'S RESPONSE TO THE CO-PROSECUTORS' IMMEDIATE APPEAL OF DECISION CONCERNING THE SCOPE OF TRIAL IN CASE 002/01****TABLE OF AUTHORITIES**Filed by:Distribution to:**The Co-Lawyers:**ANG Udom  
Michael G. KARNAVAS**The Supreme Court Chamber Judges:**Judge KONG Srim  
Judge SOM Sereyvuth  
Judge Agnieszka KLONOWIECKA-MILART  
Judge MONG Monichariya  
Judge Chandra Nihal JAYASINGHE  
Judge YA Narin  
Judge Florence Ndepele Mwachande MUMBA**Co-Prosecutors:**CHEA Leang  
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**ECCC Internal Rules – ECCC Legal Compendium**

1. Internal Rules, Rules 21, 104, 107(1).

**ECCC Filings, Jurisprudence and Transcripts – Already Disclosed on the Case File**

2. Co-Prosecutors’ Immediate Appeal of Decision Concerning the Scope of Trial in Case 002/01 with Annex I and Confidential Annex II, 7 November 2012, E163/5/1/1.
3. Co-Prosecutors’ Response to IENG Sary’s Appeal Against the Trial Chamber’s Decision Requiring the Accused to be Physically Present to Hear Charges and Opening Statements, 12 January 2012, E130/4/2.
4. Severance Order Pursuant to Internal Rule 89*ter*, 22 September 2011, E124.
5. Co-Prosecutors’ Notice of Request for Reconsideration of the Terms of “Severance Order Pursuant to Internal Rule 89*ter*”, 23 September 2011, E124/1.
6. IENG Sary’s Conditional Support to the Co-Prosecutors’ Notice of Request for Reconsideration of the Terms of the “Severance Order Pursuant to Internal Rule [89]*ter*”, 3 October 2011, E124/3.
7. Co-Prosecutors’ Request for Reconsideration of “Severance Order Pursuant to Internal Rule 89*ter*”, 3 October 2011, E124/2.
8. IENG Sary’s Response to the Co-Prosecutors’ Request for Reconsideration of “Severance Order Pursuant to Internal Rule 89*ter*”, 13 October 2011, E124/6.
9. Decision on Co-Prosecutors’ Request for Reconsideration of the Terms of the Trial Chamber’s Severance Order (E124/2) and Related Motions and Annexes, 18 October 2011, E124/7.
10. Co-Prosecutors’ Request for Clarification of the Scope of the First Trial, 4 November 2011, E124/9.
11. IENG Sary’s Response to the Co-Prosecutors’ Request for Clarification of the Scope of the First Trial, 16 November 2011, E124/9/1, introduction.

12. Notice of Trial Chamber's disposition of remaining pre-trial motions (E20, E132, E134, E135, E124/8, E124/9, E124110, E136 and E139) and further guidance to the Civil Party Lead Co-Lawyers, 29 November 2011, E145.
13. Co-Prosecutors' Request to Include Additional Crime Sites within the Scope of Trial in Case 002/01, 27 January 2012, E163.
14. IENG Sary's Response to the Co-Prosecutors' Request to Include Additional Crime Sites within the Scope of Trial in Case 002/01, 3 February 2012, E163/1.
15. Next Group of Witnesses, Civil Parties and Experts to be Heard in Case 002/01, 17 February 2012, E172, p. 4.
16. Scheduling of Trial Management Meeting to Enable Planning of the Remaining Trial Phases in Case 002/01 and Implementation of Further Measures Designed to Promote Trial Efficiency, 3 August 2012, E218.
17. Notice of Co-Prosecutors' Position on Key Issues to be Discussed at 17 August 2012 Trial Management Meeting (with Confidential Annex A), 15 August 2012, E218/2.
18. IENG Sary's Motion to Strike Notice of Co-Prosecutors' Position on Key Issues to be Discussed at 17 August 2012 Trial Management Meeting and its Annex, or, in the Alternative, Request to Respond, 16 August 2012, E218/3.
19. Trial Chamber Memorandum entitled "Scheduling of Trial Management Meeting to Enable Planning of the Remaining Trial Phases in Case 002/01 and Implementation of Further Measures Designed to Promote Trial Efficiency", 3 August 2012, E218, p. 1.
20. Transcript, 17 August 2012, E1/114.1, p. 95-102, quote p. 95.
21. IENG Sary's Rule 87(4) Response to the OCP's Request to Call TCW-505, TCW-754, TCW-100, TCE-33, TCW-720, TCW-781 and TCW-164, 14 September 2012, E218/3/1.
22. Notification of Decision on Co-Prosecutors' Request to Include Additional Crime Sites within the Scope of Trial in Case 002/01 (E163) and Deadline for Submission of Applicable Law Portion of Closing Briefs, 8 October 2012, E163/5.

23. Decision on IENG Sary's Appeal Against Trial Chamber's Decision on IENG Sary's Rule 89 Preliminary Objections (*Ne Bis in Idem* and Amnesty and Pardon), 20 March 2012, E51/15/1/1.
24. Decision on IENG Sary's Appeal Against the Trial Chamber's Decision on its Senior Legal Officer's Ex Parte Communications, 25 April 2012, E154/1/1/4, paras. 12, 14, 15.
25. Co-Prosecutors' Response to IENG Sary's Appeal Against the Trial Chamber's Decision Refusing His Request for the Trial Chamber to Direct its Senior Legal Officer to Maintain Open and Transparent Communication with all the Parties, 1 February 2012, E154/1/1/2, para. 9.
26. Co-Prosecutors' Response to IENG Sary's Two Notices of Appeal Against the Trial Chamber's Decisions Refusing the Extension of Time and Page Limits for the Filing of Preliminary Objections, 18 March 2011, E9/7/1/1/1/1, paras. 5.
27. Decision on Notice of Appeal from Civil Party Lead Co-Lawyers, 21 September 2011, E62/3/10/5/1.
28. Decision on IENG Sary's Appeal Against the Trial Chamber's Order Requiring His Presence in Court, 13 January 2012, E130/4/3.
29. Co-Prosecutors' Response to IENG Sary's Appeal Against the Trial Chamber Decision to Exclude the Armed Conflict Nexus from the Definition of Crimes Against Humanity, 2 December 2011, E95/8/1/2, para. 4.
30. Decision on Immediate Appeal Against the Trial Chamber's Order to Release the Accused IENG Thirith, 13 December 2011, E138/1/7.
31. Transcript, 12 November 2012, E1/143.1, p. 29.
32. Decision on IENG Sary's Appeal Against Trial Chamber's Decision on Co-Prosecutors' Request to Exclude Armed Conflict Nexus Requirement from the Definition of Crimes Against Humanity, 19 March 2012, E95/8/1/4.
33. Transcript, 17 August 2012, E1/114.1, p. 105-18.

**Inter-office Communications – Available upon Request**

34. Email from Trial Chamber Senior Legal Officer to all Parties, titled: “Follow-up from last Friday's TMM”, 23 August 2012.
35. Email from William Smith to Mao Sea, the Rules and Procedures Committee Secretariat, titled, “Re: OCP and DSS Requests to brief the RPC Members on the Rules amendment proposals”, 10 September 2012.

**ICTY Jurisprudence**

36. *Prosecutor v. Delalić et al.*, IT-96-21-A, Appeal Judgement, 20 February 2001, para. 640.

**Miscellaneous**

37. Douglas Gillison, *New KRT Prosecutor Vows to Stay for Duration*, CAMBODIA DAILY, 3 March 2010 – available in News Clippings on G Drive.
38. Lauren Crothers, *Prosecutors Appeal Exclusion of Two Crime Sites in Case 002*, CAMBODIA DAILY, 9 November 2012, p. 20 – available in News Clippings on G Drive.
39. Julia Wallace & Kuch Naren, *‘Mini-Trials’ a Mixed Blessing for KR Victims*, CAMBODIA DAILY, 11 July 2012, p. 1 – available in News Clippings on G Drive.
40. Annex A to ECCC 2012-2013 Budget, available at <http://www.eccc.gov.kh/en/about-eccc/finances/annexes-eccc-budget-2012-2013>.
41. Statement from the International Co-Prosecutor regarding Case File 003, available at <http://www.eccc.gov.kh/en/articles/statement-international-co-prosecutor-regarding-case-file-003>.
42. Statement by the International Co-Prosecutor regarding Case File 004, available at <http://www.eccc.gov.kh/en/articles/statement-international-co-prosecutor-regarding-case-file-004>.