

ក្រុមបេឡាវិការពារក្តី អៀង សារី E254.1

**IENG SARY DEFENCE TEAM
EQUIPE DE DEFENSE DE IENG SARY**

ANG Udom and Michael G. KARNAVAS

Co-Lawyers for IENG Sary

6 December 2012

To: **Matteo Crippa**
Trial Chamber Greffier

Susan Lamb
Trial Chamber Senior Legal Officer

Copy: **Defence Teams**

Office of the Co-Prosecutors

Civil Party Lead Co-Lawyers

Detention Facility Liaison Unit

Detention Facility

Re: **Response to Detention Facility Report on Case Manager SO Mosseny taking a voice recorder to Detainee IENG Sary's caregiver for unauthorized use**

Dear Mr. Crippa,

We write in response to the report from Mr. MAO Sophearum, Detention Facility Chief, regarding our case manager taking a voice (audio) recorder to Mr. IENG Sary's caregiver.¹

It is within the Defence's rights to use an audio recorder, whether at the pre-trial or trial stage. The Pre-Trial Chamber has already decided this issue² and the Trial Chamber has yet to decide differently. There are no circumstances that justify deviation from the Pre-Trial Chamber's decision.

It is the Defence's understanding that the caregiver is not employed by the detention facility, i.e., she is not an employee of the Ministry of Interior of the Kingdom of Cambodia. Accordingly, no authorization should be required from the Detention Facility Chief for the caregiver to use an audio recorder to record her observations. If the caregiver were literate, there would be no issue because she would be able to simply write down her observations. Suffice it to say, as the caregiver is not an employee of the detention facility, the Defence has

¹ Report on Case Manager SO Mosseny taking a voice recorder to Detainee IENG Sary's caregiver for unauthorized use, 22 November 2012 ("Detention Facility Report"), E238/10.


² Decision on IENG Sary's Appeal Against Co-Investigating Judges' Order Denying Request to Allow Audio/Video Recording of Meetings with IENG Sary at the Detention Facility, 11 June 2010, A371/2/12.


in no way obstructed the work of the detention facility or deviated from the Pre-Trial Chamber's ruling. Since detention facility staff confiscated the audio recorder from the caregiver and returned it to us, all audio recording is now being done by our case manager, Mr. So Mosseny.


It bears highlighting the Defence's position that recording Mr. IENG Sary is necessary and reasonable and part of the Defence's functions in representing Mr. IENG Sary and preparing his defence. Observing Mr. IENG Sary in this manner is essential for maintaining a comprehensive and transparent record so that, if and when the situation arises where the Defence needs to make an application regarding Mr. IENG Sary's fair trial rights, a sufficient record exists. It is precisely for this reason – to ensure that a comprehensive, transparent record exists – that the Defence also argues that videotaping Mr. IENG Sary in the holding cell, rather than just audiotaping him, is the best and least intrusive method of making such a record.³

Lest there is a need to clarify our position, or address any other issues, we request a public, oral hearing where we and Mr. MAO Sophearum can voice our arguments.

Respectfully requested,


ANG Udom


Michael G. KARNAVAS



Co-Lawyers for Mr. IENG Sary

³ See Draft Transcript, 4 December 2012, p. 4, 19-21.