

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:** 28 January 2013**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 REPLY TO THE CO-PROSECUTORS' RESPONSE TO HIS APPEAL AGAINST THE TRIAL CHAMBER'S DECISION ON DEFENCE REQUESTS CONCERNING IRREGULARITIES ALLEGED TO HAVE OCCURRED DURING THE JUDICIAL INVESTIGATION (E221, E223, E224, E224/2, E234, E234/2, E241 AND E241/1)

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ECCC Law – ECCC Legal Compendium

1. Internal Rules, Rules 21, 35(1), 104(4)(d).
2. Practice Direction on Filing of Documents Before the ECCC, 8.4.

ECCC Filings and Jurisprudence – Already Disclosed on the Case File

3. Considerations of the Pre-Trial Chamber Regarding the Appeal Against Order on the Admissibility of Civil Party Applicant Robert Hamill, Opinion of Judges Lahuis and Downing, 24 October 2011, D11/2/4/4, para. 10.
4. Decision on IENG Sary's Appeal Against the Trial Chamber's Decision on Motions for Disqualification of Judge Silvia Cartwright, 17 April 2012, E137/5/1/3, paras. 11-12, 14.
5. 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, para. 13.
6. IENG Sary's Request to Hear Evidence From the Interpreter Concerning Witness Phy Phuon's Second OCIJ Interview Whereby Irregularities Occurred Amounting to Subterfuge, 23 August 2012, E221, para. 15.
7. IENG Sary's Request that the Trial Chamber Seek Clarification From the OCIJ as to the Existence of any Record Relating to the Questioning of Witness Oeun Tan on 8 October 2008, 29 August 2012, E224, paras. 6-7.
8. KHIEU Samphan's Submission in Support of Mr. IENG Sary's Request E221, and Request for the Trial Chamber to Order the Co-Prosecutors to Revise the List of Written Statements They are Seeking to Put Before the Chamber in Lieu of Oral Testimony, 29 August 2012, E223.
9. KHIEU Samphan's Submission in Support of Mr. Ieng Sary's Request that the Trial Chamber Seek Clarification from the OCIJ as to the Existence of Any Record Relating to the Questioning of Witness Oeun Tan on 8 October 2008, 10 September 2012, E224/2.
10. IENG Sary's Request that the Trial Chamber Seek Clarification From the OCIJ as to the Questioning of Witness Norng Sophang on 17 February 2009 and Summon the OCIJ

Investigators to Give Evidence Regarding this Interview, 27 September 2012, E234, paras. 6-7, 10.

11. IENG Sary's Request for the Trial Chamber to Hold a Public Hearing and Take Evidence Concerning the OCIJ's Widespread and Systematic Practice of Conducting Unrecorded Interviews with Witnesses, 2 November 2012, E241, para. 12.
12. NUON Chea's Notice of Joinder to IENG Sary's Request E234, 2 November 2012, E234/2.
13. KHIEU Samphan's Soutien de la "Demande de IENG Sary Visant à ce que le Chamber de Première Instance Tienne une Audience Publique pour Examiner la Pratique Répandue et Systématique Suivie par le Bureau des Co-juges d'Instruction et Ayant Consisté a Mener des Entretiens avec des Témoins sans que Ceux-Ci Soient Enregistrés", 16 November 2012, E241/1.
14. Decision on Defence Requests Concerning Irregularities Alleged to Have Occurred During the Judicial Investigation (E221, E223, E224, E224/2, E234, E234/2, E241 and E241/1), 7 December 2012, E251, paras. 33, 38.
15. IENG Sary's Appeal Against the Trial Chamber's Decision on Defence Requests Concerning Irregularities Alleged to Have Occurred During the Judicial Investigation (E221, E223, E224, E224/2, E234, E234/2, E241 and E241/1), 7 January 2013, E251/1, para. 31.
16. Co-Prosecutors' Response to IENG Sary's Appeal Against the Trial Chamber's Decision on Defence Requests Concerning Irregularities Alleged to Have Occurred During the Judicial Investigation (E221, E223, E224, E224/2, E234, E234/2, E241 and E241/1), 21 January 2013, E251/1/2.

ECCC Transcripts – Already Disclosed on the Case File

17. Transcript, E1/123.1, 6 September 2012, p. 34-35, 42-44.

International Statutes and Jurisprudence – Available Online Through ECCC Library Databases

International Criminal Court

18. Statute, Art. 82(1)(d).

International Criminal Tribunal for the Former Yugoslavia

19. Rules of Procedure and Evidence, Rules 72(B), 73(B).

20. *Prosecutor v. Delalić et al.*, IT-96-21-T, Judgement, 16 November 1998, para. 387.

21. *Prosecutor v. Delalić et al.*, IT-96-21-A, Appeals Judgement, 20 February 2001, para. 226.

22. *Prosecutor v. Blaškić*, IT-95-14-A, Appeals Judgement, 29 July 2004, para. 406.

23. *Prosecutor v. Halilović*, IT-01-48-T, Judgement, 16 November 2005, para. 69.

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24. Rules of Procedure and Evidence, Rules 72(B), 73(B).

25. *Prosecutor v. Bagilishema*, ICTR-95-1A-A, Appeals Judgement, 3 July 2002, para. 35.

Special Court for Sierra Leone

26. Rules of Procedure and Evidence, Rule 73(B).

27. *Prosecutor v. Sesay et al.*, SCSL-04-15-A, Appeals Judgement, 26 October 2009, para. 855.

Special Tribunal for Lebanon

28. Rules of Procedure and Evidence, Rules 92(B)(ii), 126(C).

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Canada

29. *Sansregret v. The Queen*, [1985] 1 S.C.R. 570, 584.

United Kingdom

30. *Hyam v. DPP* [1975] AC 55.

United States

31. *Osborn v. Bank of the United States*, 22 U.S. 738, 866 (1824).

32. *U.S. v. Jewell*, 532 F.3d 697, 702-03 (9th Cir. 1976).

33. *U.S. v. Heredia*, 483 F.3d 913, 918, 919 n. 6, 922 n. 13 (9th Cir. 2007).