

ក្រុមបេធាវីការពារក្តី អៀង សារី
IENG SARY DEFENCE TEAM
EQUIPE DE DEFENSE DE IENG SARY

ANG Udom and Michael G. KARNAVAS

Co-Lawyers for Mr. IENG Sary

23 January 2013

To: **Supreme Court Chamber**
Greffiers

Office of the Co-Prosecutors

Civil Party Lead Co-Lawyers

Case 002 Defence Teams

Re: Request for clarification concerning the Trial Chamber's Decision on the IENG Sary Defence to Audio and/or Video Record IENG Sary in the Holding Cell (E254/3)

Dear Supreme Court Chamber Greffiers,

We seek clarification concerning the Impugned Decision on the IENG Sary Defence Request to Audio and/or Video Record IENG Sary in the Holding Cell (E254/3).

Upon analysis and reflection, the Impugned Decision is in essence a justification of, i.e. it provides the legal reasoning for, the Trial Chamber's oral decision denying the Defence's request that Mr. IENG Sary be video recorded in the holding cell (Transcript, E1/147.1, p. 17-19) and its Memorandum (E254) ordering the Defence to stop audio recording Mr. IENG Sary in the holding cell, requiring the Defence to seek leave to resume recording and prohibiting any further observations, whether based on audio or video recordings or the observations of the Defence team, until the Trial Chamber could make a decision on the permissibility of such practices. The Defence has already appealed the Trial Chamber's oral decision denying the Defence's request that Mr. IENG Sary be video recorded in the holding cell (*see* E238/9/1/1). The OCP filed a Response to the appeal (E238/9/1/2), to which the Defence filed a Reply (E238/9/1/3),

Indeed, while it would appear that no new legal issues are being raised in the Impugned Decision, the reasoning does include new justification, such as claiming that audio or video recording amounts to an investigation in violation of the ECCC's legal framework (Impugned

Decision, para. 12). In light of this, while a new appeal would seem justified, it would appear that the more prudent course (and to avoid any repetition or confusion) would be to file supplemental arguments to the pending Appeal (E238/9/1/1), with the understanding that the parties would have the opportunity to provide reasoned responses. We would be most grateful if we could be provided with some guidance as expeditiously as possible so that we may diligently execute our duties in representing Mr. IENG Sary.

Respectfully submitted,



ANG Udom

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