

BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

FILING DETAILS

Case No: 002/19-09-2007-ECCC/TC **Party Filing:** Co-Prosecutors
Filed to: Trial Chamber **Original Language:** English
Date of document: 15 January 2014

CLASSIFICATION

**Classification of the document
suggested by the filing party:** PUBLIC

Classification by Trial Chamber: សាធារណៈ/Public

Classification Status:

Review of Interim Classification:

Records Officer Name:

Signature:



**CO-PROSECUTORS' SUBMISSION REGARDING THE USE OF EVIDENCE AND
PROCEDURE FOR RECALL OF WITNESSES FROM CASE 002/01 IN CASE 002/02**

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ECCC LAW

Jurisprudence

1. E301/5 Memorandum: Trial Chamber Workplan for Case 0002/02 and Schedule for Upcoming Filings, 24 December 2013.
2. E301/4 President's Memorandum on the Proposal to Appoint a Second Panel of the Trial Chamber to Try the Remaining Charges in Case 002, 20 December 2013.
3. E301/4 President's Memorandum on the Proposal to Appoint a Second Panel of the Trial Chamber to Try the Remaining Charges in Case 002, 20 December 2013.
4. E301/4 President's Memorandum on the Proposal to Appoint a Second Panel of the Trial Chamber to Try the Remaining Charges in Case 002, 20 December 2013.
5. E284/4/8 Decision on Immediate Appeal against Trial Chamber's second decision on severance of Case 002, 25 November 2013.
6. E267/3 Decision on Request to Recall Civil Party TCCP-187, for Review of Procedure Concerning Civil Parties' Statements on Suffering and Related Motions and Responses (E240, E240/1, E250, E250/1, E267, E267/1 and E267/2), 2 May 2013.
7. E284 Decision on Severance of Case 002 Following Supreme Court Chamber Decision of 8 February 2013, 26 April 2013.
8. E264/1 Memorandum : Scheduling of Experts Phillip Short and Elizabeth Becker and postponement of Fact Witnesses until Decision on Severance, 26 February 2013.
9. E215 Decision on Assignment of Experts, 5 July 2012.
10. E131 Scheduling Order for Opening Statements and Hearing on the Substance in Case 002, 18 October 2011.
11. E124/7 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.
12. E124/7.3 Annex : List of paragraphs and portions of the Closing Order relevant to Case 002/01, amended further to the Trial Chamber's Decision on Ieng Thirith's Fitness to Stand Trial (E138) and the Trial Chamber's Decision on Co-Prosecutor's Request to Include Additional Crime Sites within the Scope of Trial in Case 002/01 (E163), 18 October 2011.

INTERNATIONAL LAW

Jurisprudence

International Criminal Tribunal for the Former Yugoslavia (ICTY)

13. *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Decision on Accused's Motion to Recall Harry Konings for Further Cross-Examination, (ICTY Trial Chamber), 11 February 2011, para. 8.
14. *Prosecutor v. Édouard Karemera et al.*, Case No. ICTR-98-44-T, Decision on Joseph Nzirorera's Motion to Recall Prosecution Witness BDW, (ICTR Trial Chamber), 23 July 2009, at para. 3.
15. *Prosecutor v. Ante Gotovina et al.*, Case No. IT-06-90-T, Decision on Prosecution Motion to Recall Marko Rajčić, (ICTY Trial Chamber), 24 April 2009, para. 10.
16. *Prosecutor v Ramush Haradinaj, Idriz Balaj, Lahi Brahimaj*, Case No. IT-04-84-T, Reasons for Trial Chamber's Decision to Exclude the Evidence of Witness 55 Under Rule 89(D) and Deny his Testimony Pursuant to Rule 92 Quarter, (ICTY Trial Chamber), 14 December 2007, para. 8.
17. *Prosecutor v. Milan Martić*, Case No. IT-95-11, Decision on Appeal against the Trial Chambers' Decision on the Evidence of Witness Milan Babic, (ICTY Appeal Chamber), 14 September 2006, paras. 11, 13, 14, 22.
18. *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-T, First Decision on Prosecution's Motion for Admission of Witness Statements and Prior Testimony Pursuant to Rule 92bis, (ICTY Appeal Chamber), 12 June 2003, para. 14, 26.
19. *Prosecutor v. Zlatko Aleksovski*, Case No. IT-95-14/1-AR73, Decision on Prosecutor's Appeal on Admissibility of Evidence, (ICTY Appeal Chamber), 16 February 1999, para. 27.

Resolutions, Reports & Commentaries

20. Rodriguez Orejuela v. Colombia, U.N. Human Rights Committee, Communication No. 848/1999, U.N. Doc. A/57/40 at 172, 23 July 2002.

REGIONAL AND FOREIGN DOMESTIC LAW

Statutes

21. Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome, the 4th November 1950, Article 6 (3).

Jurisprudence

22. *Laukkanen and Manninen v Finland*, Application No. 50230/99, Judgment of the European Court of Human Rights, 3 February 2004, at para. 35.
23. *Salmon Meneses v Italy*, Application No. 18666191, Decision of European Commission of Human Rights, 30 November 1994.
24. *Windisch v Austria*, Application No. 12489/86, Judgment of the European Court of Human Rights, 27 September 1990, at para. 28.
25. *Bricmont v. Belgium*, Application No. 10857/84, Judgment of the European Court of Human Rights, 07 July 1989.