

BEFORE THE SPECIAL PANEL OF THE TRIAL CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

**FILING DETAILS**

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**CO-PROSECUTORS' RESPONSE TO  
NUON CHEA'S DISQUALIFICATION APPLICATION-TABLE OF AUTHORITIES**

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**Filed by:**

**Co-Prosecutors**  
CHEA Leang  
Nicholas  
KOUMJIAN

**Distributed to:**

**Special Panel**  
Judge THOU Mony, President  
Judge Rowan DOWNING  
Judge HUOT Vuthy  
Judge Chang-ho CHUNG  
Judge PEN Pichsaly

**Copied to:**

**Trial Chamber**  
Judge NIL Nonn, President  
Judge Claudia FENZ  
Judge YA Sokhan  
Judge Jean-Marc LAVERGNE Judge YOU  
Ottara

**Copied to:**

**Accused**  
NUON Chea  
KHIEU Samphan

**Lawyers for the Defence**  
SON Arun  
Victor KOPPE  
KONG Sam Onn  
Arthur VERCKEN  
Anta GUISSÉ

**Civil Party Lead Co-Lawyers**  
PICH Ang  
Marie GUIRAUD

## **ECCC LAW**

*(Not included - ECCC Legal Compendium)*

### **Core Legal Documents**

1. Agreement between the United Nations and the Royal Government of Cambodia concerning the prosecution under Cambodian law of crimes committed during the period of Democratic Kampuchea dated 6 June 2003 (“ECCC Agreement”), arts. 1, 3(2), 9.
2. Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia Art. 10 new, 11 new, and 19 of the ECCC Law. Law on the Organization and Functioning of Supreme Council of Magistracy, dated 22 December 1994, arts. 2, 9, 11, 12.
3. Extraordinary Chambers of the Courts of Cambodia, Internal Rules (Rev. 8), as revised on 12 August 2011, Rules 31(b), 34(2), 34(3).
4. The Constitution of the Kingdom of Cambodia, 1993, art. 132 new.

### **Jurisprudence**

5. C11/29 Decision on the Co-Lawyers’ Urgent Application for Disqualification of Judge Ney Thol pending the Appeal against the Provisional Detention Order in the Case of Nuon Chea, 4 February 2008, para. 8.
6. E55/4 Decision on Ieng Thirith, Nuon Chea and Ieng Sary’s application for disqualification of Judges Nil Nonn, Silvia Cartwright, Ya Sokhan, Jean-Marc Lavergne and Thou Mony, 23 March 2011, paras. 11-12, 15.
7. E301/9/1/1/3 Decision on Khieu Samphan’s Immediate Appeal against the Trial Chamber’s Decision on Additional Severance of Case 002 and the Scope of Case 002/02, 29 July 2014, para. 85.
8. E312 Final Decision on Witnesses, Experts and Civil Parties to be heard in Case 002/01, 7 August 2014.
9. E313 Case 002/01 Judgment, 7 August 2014, paras. 112, 116, 118, 127, 130, 168 and fns. 326-327, 384, 908.
10. E314/4 Decision of the JAC regarding the constitution of the bench following disqualification motions, 4 September 2014.

## **INTERNATIONAL LAW**

### **Instruments**

11. Convention on the Prevention and Punishment of the Crime of Genocide, 78 UNTS 277.
12. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in in Armed Forces in the Field, 75 UNTS 31.
13. Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea 75 UNTS 85.
14. Geneva Convention relative to the Treatment of Prisoners of War, 75 UNTS 135.
15. Geneva Convention relative to the Protection of Civilian Persons in Time of War 75 UNTS 287.

### **Jurisprudence**

#### ***International Court of Justice (ICJ)***

16. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Diss. Op. of Judge Buergenthal on ‘Order of 30 January 2004’, 2004 ICJ Rep. 7, 30 Jan 2004, paras. 11, 13. *(Not included – available on ICJ website)*

#### ***International Criminal Tribunal for the Former Yugoslavia (ICTY)***

17. *Prosecutor v. Radoslav Brđanin and Momir Talić*, Case No. IT-99-36-PT, Decision on Application by Momir Talić for the Disqualification and Withdrawal of a Judge (ICTY Trial Chamber II), 18 May 2000, paras. 15, 18-19. *(Not included – available on ICTY website)*
18. *Prosecutor v. Anto Furundžija*, Case No. IT -95-17/I-A, Judgment (ICTY Appeals Chamber), 21 July 2000, paras. 189, 190, 197. *(Not included – available on ICTY website)*
19. *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-PT, Decision on Motion for Disqualification (President), 16 February 2007, para. 25. *(Not included – available on ICTY website)*
20. *Prosecutor v. Vojislav Šešelj*, Case IT-03-67-T, Decision on Defence Motion for Disqualification of Judge Frederik Harhoff and Report to the Vice-President (ICTY Chamber convened by order of the Vice-President), 28 August 2013, paras. 12-13. *(Not included – available on ICTY website)*

21. *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-T, Decision on Galić's Application pursuant to Rule 15(b) (ICTY Bureau), 28 March 2003, para. 16. (*Not included – available on ICTY website*)
22. *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-A, Decision on Drago Nikolić Motion to Disqualify Judge Liu Daqun (President), 20 January 2011, paras. 3, 7-8, 10, and 12. (*Not included – see ICTY judicial compendium*)
23. *Prosecutor v. Zejnil Delalić, Hazim Delić, Esad Landžo and Zdravko Mucić*, Case No. IT-96-21-A, Judgement (Appeals Chamber), 20 February 2001, para. 707. (*Not included – available on ICTY website*)

### ***International Criminal Tribunal for Rwanda (ICTR)***

24. *Prosecutor v. Edouard Karemera et al.*, Case No. ICTR 98-44-T, Decision on Motion by Karemera for Disqualification of Trial Judges (ICTR Bureau), 17 May 2004, paras. 10, 13. (*Not included – available on ICTR website*)

### ***Special Court for Sierra Leone (SCSL)***

25. *Prosecutor v. Issa Hassan Sesay et al.*, SCSL-04-15-T, Decision on Sesay and Gbao Motion for Voluntary Withdrawal or Disqualification of Hon. Justice Bankole Thompson from the RUF case (Trial Chamber I), 6 December 2007, para. 55. (*Not included – available on SCSL website*)
26. *Prosecutor v. Issa Hassan Sesay et al.*, Decision on Sesay, Kallon and Gbao Appeal against Decision on Sesay and Gbao Motion for Voluntary Withdrawal or Disqualification of Hon. Justice Bankole Thompson from the RUF case, SCSL-04-15-T (Appeals Chamber), 24 January 2008, paras. 9, 12-13. (*Not included – available on SCSL website*)

## **REGIONAL AND FOREIGN DOMESTIC LAW**

27. *Kyprianou v. Cyprus*, Application. No. 73797/01, Judgment of the European Court of Human Rights, 15 Dec 2005, paras. 77-78. (*Not included – available on ECHR website*)
28. *Poppe v. The Netherlands*, Application no. 32271/04, Judgment of the European Court of Human Rights, 24 March 2009, paras. 26, 28. (*Not included – available on ECHR website*)
29. *Schwarzenberger v. Germany*, Application no. 75737/01, Judgment of the European Court of Human Rights, 10 August 2006, paras. 42, 43. (*Not included – available on ECHR website*)
30. *Andrade v. Chojnacki* 338 F.3d 448 (5th Cir. 2003) at 462. (***Authority 1***)

31. *Liteky et al. v. United States*, 510 U.S. 540 at 551-556 (United States of America). (*Not included – previously filed – E314/3.1.3, ERN 01023751-753*)
32. *People v. Vance*, 76 Ill.2d 171, 28 Ill.Dec. 508, 513, 390 N.E.2d 867, 872 (1979) (United States of America). (**Authority 2**)
33. *Poland v. Stewart*, [1997] 117 F.3d 1094, 97 Cal. Daily Op. Serv. 4854, 97, D.A.R. 7958, para. 65 (United States of America). (*Not included – previously filed – E314/3.1.5, ERN 01023757-759*)
34. *President of the Republic of South Africa v. South Africa Rugby Football Union*, Judgment on Recusal Application, Constitutional Court of South Africa, 1999 (7) BCLR 725 (CC), para. 46 (South Africa). (*Not included – previously filed – E55.1.15, ERN 00647444-451*)
35. *Re JRL; Ex parte CJL* (1986) 161 CLR 342 at 352 (Australia). (*Not included – previously filed – E314/3.1.6, ERN 01023760-761*)
36. *R. v. Zundel*, 1992 2 SCC 731 (Canada) at 752-753 (Canada). (**Authority 3**)
37. *United Latin American Citizens (LULAC) of Wisconsin v. Deininger*, 12-C-0185 (E.D. Wis. Sept. 17, 2013) at 1 (United States of America). (**Authority 4**)
38. *Welch v. The State*, 257 Ga. 197 (1987) 357 S.E.2d 70 (United States of America). (**Authority 5**)