

**BEFORE THE TRIAL CHAMBER****EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA****FILING DETAILS****Case No:** 002/19-09-2007-ECCC/TC**Party Filing:** The Defence for MEAS Muth**Filed to:** The Trial Chamber**Original language:** ENGLISH**Date of document:** 05 June 2015**CLASSIFICATION****Classification of the document  
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**MEAS MUTH'S REQUEST TO INTERVENE IN CASE 002/02 TO ADDRESS THE  
USE OF TORTURE-TAINTED EVIDENCE AT THE ECCC  
OR, IN THE ALTERNATIVE,  
REQUEST FOR LEAVE TO SUBMIT *AMICUS CURIAE* BRIEF ON THE USE OF  
TORTURE-TAINTED EVIDENCE AT THE ECCC  
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**ECCC Law – ECCC Legal Compendium**

1. Internal Rules, Rule 33.

**ECCC Jurisprudence – Already disclosed on the Case File**

2. *Case of NUON Chea at al.*, 002/19-09-2007-ECCC-OCIJ (PTC02), Decision on IENG Sary’s Request to Make Submissions on the Application of the Theory of Joint Criminal Enterprise in the Co-Prosecutors’ Appeal of the Closing Order against Kaing Guek Eav “Duch”, 6 October 2008, D99/3/19, para. 11.
3. *Case of IENG Sary*, 002/19-09-2007-ECCC/OCIJ, Request Concerning the OCIJ’s Identification of, and Reliance on, Evidence Obtained through Torture, 17 July 2009, D130/7.
4. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC-OCIJ, Order on use of statements which were or may have been obtained by torture, 28 July 2009, E5/1555, paras. 17, 19, 28.
5. *Case of IENG Sary*, 002/19-09-2007-ECCC/OCIJ, Letter Concerning the OCIJ’s Identification of, and Reliance on, Evidence Obtained through Torture, 7 August 2009, D130/7/21.
6. *Case of IENG Sary*, 002/19-09-2007-ECCC/OCIJ(PTC31), IENG Sary’s Appeal Against the OCIJ’s Constructive Denial of IENG Sary’s Requests Concerning the OCIJ’s Identification of and Reliance on Evidence Obtained through Torture, 19 November 2009, D130/7/3/1.
7. *Case of IENG Sary*, 002/19-09-2007-ECCC/OCIJ(PTC31), Decision on Admissibility of IENG Sary’s Appeal against the OCIJ’s Constructive Denial of IENG Sary’s Requests Concerning the OCIJ’s Identification of and Reliance on Evidence Obtained through Torture, 10 May 2010, D130/7/3/5, para. 38.
8. *Case of KAIING Guek Eav alias “Duch”*, 001/18-07-2007-ECCC/SC, Decision on DSS Request to Submit an *Amicus Curiae* Brief to the Supreme Court Chamber, 9 December 2010, F7/2, paras. 8-9.
9. *Case of NUON Chea at al.*, 002/19-09-2007-ECCC/TC, Memorandum titled “Trial Chamber response to Motions E67, E57, E56, E58, E23, E59, E20, E33, E71 and E73 following Trial Management Meeting of 5 April 2011,” 8 April 2011, E74, p. 3.
10. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Case 002/01 Judgement, 7 August 2014, E313, para. 35.

11. *Case of MEAS Muth*, 003/07-09-2009-ECCC-OCIJ, Decision to Charge MEAS Muth *In Absentia*, Annex, 3 March 2015, D128.1, paras. 4, 10.
12. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/SC, Decisions on Requests to Intervene or Submit *Amici Curiae* Briefs in Case 002/01 Appeal Proceedings, 8 April 2015, F20/1, paras. 9, 11-12.
13. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Transcript, 28 April 2015, E1/294.1, p. 42.
14. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Transcript, 7 May 2015, E1/298.1, p. 3-5.
15. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Email from Trial Chamber concerning “Submissions regarding evidence obtained through use of torture,” 7 May 2015, E350/4.2.
16. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, NUON Chea’s Submissions Regarding the Use of “Torture-Tainted Evidence” in the Case 002/02 Trial, 21 May 2015, E350, paras. 17, 30.
17. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Co-Prosecutors’ Submission Regarding the Application of the Torture Convention to S-21 Confessions and Other Records Relating to Interrogations of Prisoners, 21 May 2015, E350/1, paras. 7, 9-13, 15-18, 22.
18. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Civil Party Lead Co-Lawyers’ Submissions Relating to the Admissibility and Permissible Uses of Evidence Obtained Through Torture, 21 May 2015, E350/3, paras. 16-17.
19. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Conclusions de la Défense de M. KHIEU Samphân concernant l’usage des informations obtenues sous la torture, 21 May 2015, E350/4, paras. 12-13.

**International Instruments – ECCC Legal Compendium**

20. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984, entered into force on 26 June 1987, 1465 U.N.T.S. 113 (1984), Art. 15.

**International Laws and Jurisprudence****ICC – Publicly available on ICC website**

21. *Situation in the Republic of Kenya*, ICC-01/09-35, Decision on Application for Leave to Submit *Amicus Curiae* Observations, 18 January 2011, para. 6.

**ICTY – Publicly available on ICTY website**

22. Information Concerning the Submission of *Amicus Curiae* Briefs, 27 March 1997, IT/122, para. 3(a) and (f), available at [http://icty.org/x/file/Legal%20Library/Miscellaneous/it122\\_amicuscuriae\\_briefs\\_en.pdf](http://icty.org/x/file/Legal%20Library/Miscellaneous/it122_amicuscuriae_briefs_en.pdf) (last accessed 24 May 2015).
23. *Prosecutor v. Brđanin*, IT-99-36-A, Decision on Motion to Dismiss Ground 1 of the Prosecutor's Appeal, 5 May 2005, p. 5.
24. *Prosecutor v. Brđanin*, IT-99-36-A, *Amicus Brief of Association of Defence Counsel – ICTY*, 5 July 2005.
25. *Prosecutor v. Prlić et al.*, IT-04-74-T, Order Appointing an *Amicus Curiae*, 3 July 2009.
26. *Prosecutor v. Prlić et al.*, IT-04-74-T, Advisory Opinion of *Amicus Curiae* Disciplinary Council of the Association of Defence Counsel of the ICTY, 13 August 2009.

**ICTR – Publicly available on ICTR website**

27. *Prosecutor v. Bagosora*, ICTR-96-7-T, Decision on the *Amicus Curiae* Application by the Government of the Kingdom of Belgium, 6 June 1998 p. 3.
28. *Prosecutor v. Bagosora et al.*, ICTR-98-41-T, Reconsideration of Earlier Decision on *Amicus Curiae* Application by the Kingdom of Belgium, 13 February 2007, para. 6.

**SCSL – Publicly available on RSCSL website**

29. *Prosecutor v. Kallon*, SCSL-2003-07-PT, Decision on Application by the Redress Trust, Lawyers Committee for Human Rights and the International Commission of Jurists for Leave to File *Amicus Curiae* Brief and to Present Oral Submissions, 1 November 2003, paras. 4-5, 7, 12.
30. *Prosecutor v. Kallon & Kamara*, SCSL-2004-15-AR72(E), Decision on Challenge to Jurisdiction: Lomé Accord Amnesty, 13 March 2004, title page, p. 3.

31. *Prosecutor v. Norman*, SCSL-2004-14-AR72(E), Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment), 31 May 2004, title page, p. 3.
32. *Prosecutor v. Norman*, SCSL-2004-14-AR72(E), Decision on Preliminary Motion Based on Lack of Jurisdiction (Judicial Independence), 13 March 2004, title page.