

BEFORE THE TRIAL CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

**FILING DETAILS**

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**CO-PROSECUTORS' JOINT RESPONSE TO: 1) NUON CHEA'S URGENT APPLICATION FOR DISQUALIFICATION OF JUDGE CARTWRIGHT; AND 2) IENG SARY'S REQUEST FOR INVESTIGATION CONCERNING *EX PARTE* COMMUNICATIONS BETWEEN THE INTERNATIONAL CO-PROSECUTOR, JUDGE CARTWRIGHT AND OTHERS**

**TABLE OF AUTHORITIES**

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## ECCC LAW

### Core Legal Documents

*(Not included – ECCC Legal Compendium)*

1. Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea, as amended 27 October 2004, Art. 19.
2. 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, 6 June 2003, Art. 6(3).
3. Extraordinary Chambers in the Courts of Cambodia, Internal Rules (Rev. 8), as revised on 3 August 2011, Rules 18(3)(a), 21(1)(a), 34, & 35.

### Decisions

*(Not included – already on case file)*

4. Public (Redacted) Decision on Nuon Chea's Application for Disqualification of Judge Marcel Lemonde, 4, ERN 00485317-00485329, 23 March 2010, paras. 17-19.
5. Second Decision on Nuon Chea's and Ieng Sary's Appeal Against OCIJ Order on Requests to Summon Witnesses, 9 September 2010, D314/1/12, ERN 00600748-00600774, para. 31, 32, & 37.
6. Decision on Ieng Sary's Application to Disqualify Judge Nil Nonn and Related Requests, 28 January 2011, E5/3, ERN 00640427-00640435, para. 14.
7. Decision on Ieng Thirith, Nuon Chea and Ieng Sary's Applications for Disqualifications of Judges Nil Nonn, Silvia Cartwright, Ya Sokhan, Jean-Marc Lavergne and Thou Mony, 23 March 2011, E55/4, ERN 00655651-00655700, paras. 12, 15, 17, 19, & 20.

## INTERNATIONAL LAW

### Instruments

8. International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (Rev. 46), 20 October 2011, Rules 23, 23bis, & 23ter. *(Not included – available on ICTY website.)*
9. International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, Rules of Procedure and Evidence, as revised 1 October 2009, Rules 23, 23bis, & 23ter. *(Not included – available on ICTR website.)*

10. International Criminal Court, Rules of Procedure and Evidence, 9 September 2002, Rule 26(2). (*Not included – available on ICC website.*)
11. International Criminal Court, Regulations of the Court, Regulations 120-121. (*Not included – available on ICC website.*)
12. Guidelines on the Roles of Prosecutors, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to September 1990. (**Authority 1**)

### **Jurisprudence**

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

*(Not included - available on ICTY website)*

13. *Prosecutor v. Furundžija*, Case No. IT-95-17/1-A, Judgement, 21 July 2000, paras. 186, 189, 197, & 200.
14. *Prosecutor v. Delalić et al.*, Case No. IT-96-21-A, Judgement, 20 February 2001, para. 707.
15. *Prosecutor v. Milošević*, Case IT-02-54-A-R77.4, Decision on Interlocutory Appeal on Kosta Bulatović Contempt Proceedings, 29 August 2005, paras. 40-43.
16. *Prosecutor v. Šešelj*, Case IT-03-67-R.77.4, Public Edited Version of “Decision on Failure to Remove Confidential Information From Public Website and Order in Lieu of Indictment” Issued on 9 May 2011, 24 May 2011, para. 27.
17. *Prosecutor v. Milošević*, Cases IT-02-54-Misc5 & IT-02-54-Misc6, Decision on the Initiation of Contempt Investigations, 18 July 2011, Para. 11.

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

*(Not included - available on ICTR website)*

18. *Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-T, Decision on Joseph Nzirorera’s Motion for Disqualification of Judge Byron and Stay of Proceedings, 20 February 2009, paras. 5 & 6.

#### ***European Court of Human Rights***

*(Not included - available on ECHR website)*

19. *Gomes v. Sweden*, Decision on Admissibility, Application No. 34566/04, 7 February 2006, at p. 11.

#### ***Inter-American Court of Human Rights***

*(Not included – available on IACHR website)*

20. *Herrera y Vargas (La Nación)*, Costa Rica, Petition No. 12.367, IACHR, Report No. 128/01, December 3, 2001 at para. 50.
21. *Monsi Lilia Velarde Retamozo v. Peru*, Petition 12.165, Report No. 85/03, Inter-Am. C.H.R., OEA/Ser.L/V/II.118 Doc. 70 rev. 2 at 437, October 22, 2003 at para. 45.
22. *Rubén Luis Godoy v. Argentina*, Petition 12.324, Report No. 4/04, February 24, 2004 at para. 43.
23. *Elena Tellez Blanco v. Costa Rica*, Petition 712-03, Report No. 29/07, April 26, 2007 at para. 58.
24. *I.V. v Bolivia*, Petition 270-07, Report No. 40/08, Inter-Am. C.H.R., OEA/Ser.L/V/II.130 Doc. 22, rev. 1, July 23, 2008 at para. 79.

***Committee Against Torture***  
(*Not included – available on CAT website*)

25. General Comment No. 01: Implementation of article 3 of the Convention in the context of article 22 (11/21/1997). A/53/44, annex IX, CAT General Comment No. 01. (General Comments) at paras. 4-6.
26. H.I.A. v. Sweden, Communication No. 216/2002, U.N. Doc. CAT/C/30/D/216/2002 (2003) (Decisions of the Committee Against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - Thirtieth session - Communication No. 216/2002 ) at paras. 6.1-6.2.

**NATIONAL LAW**

**French Ministry of Justice Circulars**

27. «Circulaire ARTT pour les magistrats des juridictions, de l'ENM et de l'ENG, SJ 2001-11 DSJ/12-12- 2001 NOR : JUSB0110566C, ARTT - Temps de travail» Bulletin Officiel du Ministère de la Justice n° 85 (1er janvier - 31 mars 2002), Circulaires de la direction des services judiciaires, Signalisation des circulaires du 1er janvier au 31 mars 2002. **(Authority 2)**
28. «Circulaire relative à l'effectivité de la réponse pénale CRIM 2002-08 E3/10-04-2002 NOR : JUSD0230067C Exécution des peines- Politique pénale» Bulletin Officiel du Ministère de la Justice n° 86 (1<sup>er</sup> avril-30 juin 2002), Circulaires de la direction des affaires criminelles et des grâces, Signalisation des circulaires du 1er avril au 30 juin 2002. **(Authority 3)**
29. «Politique pénale en matière de délinquance des mineurs, CRIM 2002-17 E1/13-12-2002 NOR : JUSD0230200C, Délinquance- Mineur- Politique pénale» Bulletin Officiel du Ministère de la Justice n° 88 (1er octobre - 31 décembre 2002), Circulaires de la direction des affaires criminelles et des grâces Signalisation des circulaires du 1er octobre au 31 décembre 2002. **(Authority 4)**