

BEFORE THE SUPREME COURT CHAMBER**EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA****FILING DETAILS****Case No:** 002/19-09-2007-ECCC/SC**Party Filing:** The Defence for IENG Sary**Filed to:** The Supreme Court Chamber**Original language:** ENGLISH**Date of document:** 5 January 2012**CLASSIFICATION****Classification of the document
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**IENG SARY'S APPEAL AGAINST THE TRIAL CHAMBER'S DECISION ON
MOTIONS FOR DISQUALIFICATION OF JUDGE SILVIA CARTWRIGHT**

TABLE OF AUTHORITIES

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Judge Agnieszka KLONOWIECKA-MILART
Judge Chandra Nihal JAYASINGHE
Reserve Judge SIN Rith
Reserve Judge Florence MUMBA**Co-Prosecutors:**CHEA Leang
Andrew CAYLEY**All Defence Teams****All Civil Parties**

Cambodian Law – ECCC Legal Compendium

1. Cambodian Constitution, Arts. 31, 128 new.
2. Cambodian Code of Ethics for Judges, Art. 9.

ECCC Law – ECCC Legal Compendium

3. Establishment Law, Arts. 10 new, 33 new, 41, 42 new.
4. Agreement, Arts. 3(3), 12, 13(1), 19, 20.
5. Internal Rules, 9(1), 19, 21, 34, 35, 41, 93, 104(1), 104(4)(d), 109(1).
6. ECCC Code of Judicial Ethics, preamble.

ECCC Jurisprudence – Already Disclosed on the Case File

1. Response to IENG Sary’s Request for Appropriate Measures to be Taken Concerning Certain Statements by Prime Minister Hun Sen which Challenge the Independence of Pre-Trial Chamber Judges Katinka Lahuis and Rowan Downing, 1 November 2009, 3, para. 2.
2. 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, paras. 37-38.
3. Decision on IENG Sary’s Application to Disqualify Judge Nil Nonn and Related Requests, 28 January 2011, E5/3, para. 14.
4. Letter from NUON Chea Defence to Judge Nil Nonn, re ‘Request for information related to ex-parte meetings between Judge Cartwright, Andrew Cayley, and/or Knut Rosandhaug’, 4 November 2011, E137.
5. Request for Information Regarding *Ex-Parte* Meetings among Judge Silvia Cartwright, the International Co-Prosecutor, and the Deputy Director of Administration, 15 November 2011, E137/1, paras. 6-7.
6. Urgent Application for Disqualification of Judge Cartwright, 21 November 2011, E137/2, para. 15.
7. Trial Transcript, 21 November 2011, E1/13.1, p. 14.
8. IENG Sary’s Request for Investigation Concerning *Ex Parte* Communications Between the International Co-Prosecutor, Judge Cartwright and Others, 24 November 2011, E137/3.
9. 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, 1 December 2011, E137/4, paras. 26, 28-29.
10. Decision on Motions for Disqualification of Judge Silvia Cartwright, 2 December 2011, E137/5, paras. 12-13, 18-22.
 11. Decision on IENG Sary's Rule 35 Application for Judge Marcel Lemonde's Disqualification, Case 002/ 07-12-2009-ECCC/PTC(06), 5, 29 March 2010, paras. 11.
 12. Case File 002/14-12-2009-ECCC/PTC(08).

ECCC Internal and External Correspondence – Already Disclosed on the Case File

1. Email from Mr. Pestman to Mr. Rosandhaug, 27 October 2011.
2. Email from Mr. Karnavas to Mr. Cayley, 30 October 2011.
3. Email from Mr. Rosandhaug to Mr. Pestman, 1 November 2011.
4. Letter from IENG Sary Defence to Mr. Rosandhaug, 2 November 2011.
5. Email from Mr. Pestman to Judge Cartwright, 3 November 2011.
6. Email from Mr. Cayley to Mr. Pestman, 4 November 2011.
7. Email from Mr. Pestman to Mr. Cayley, 4 November 2011.
8. Letter from Mr. Rosandhaug to Mr. Ang Udom and Mr. Karnavas, 7 November 2011.
9. Letter from the IENG Sary Defence Team to Patricia O'Brien, re: Request for the provision of a statement regarding *ex parte* meetings between ECCC International Trial Chamber Judge Sylvia Cartwright, ECCC International Co-Prosecutor Andrew Cayley and UNAKRT Deputy Director of Administration, Knut Rosandhaug, 24 November 2011.
10. Letter from the IENG Sary Defence Team to H. E. Sok An, re: Request for information regarding *ex parte* meetings between ECCC International Trial Chamber Judge Sylvia Cartwright, ECCC International Co-Prosecutor Andrew Cayley and UNAKRT Deputy Director of Administration, Knut Rosandhaug, 24 November 2011.
11. Letter from the IENG Sary Defence Team to Judge Kong Srim, re: Request for information regarding *ex parte* meetings between ECCC International Trial Chamber Judge Sylvia Cartwright, ECCC International Co-Prosecutor Andrew Cayley and UNAKRT Deputy Director of Administration, Knut Rosandhaug, 24 November 2011.
12. Letter from the IENG Sary Defence Team to Trial Chamber Senior Legal Officer, Susan Lamb, Re: IENG Sary's Request for Leave to Reply to 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, 30 November 2011, p. 1, 3.

International Instruments and Conventions – ECCC Legal Compendium or Publicly Available Online

1. International Covenant on Civil and Political Rights, U.N.G.A. Res. 2200A(XXI), 16 December 1966, Art. 14(1).
2. United Nations Basic Principles on the Independence of the Judiciary, Principles 4, 6.
3. Bangalore Principles of Judicial Conduct 2002, Value 2, Application 2.2.

International Law and Jurisprudence

ICC – Publicly available online

1. ICC Regulations of the Court, adopted on 26 May 2004, Regulation 3(2).

ICTY – Publicly available online

2. ICTY Rules of Procedure and Evidence, Rule 23bis(B), 77.
3. *Prosecutor v. Furundzija*, IT-95-17/1-A, Judgement, 21 July 2000, para. 177.
4. *Prosecutor v. Prlić et al.*, IT-04-74-AR65.24, Decision on Jadranko Prlić’s Appeal Against the Trial Chamber Decision on his Motion for Provisional Release, 8 June 2011, para. 4.
5. *Prosecutor v. Milošević*, IT-02-54-Misc.5 & IT-02-54-Misc.6, Decision on the Initiation of Contempt Investigations, 18 July 2011, para. 11.
6. *In the Case Against Florence Hartman*, IT-02-54-R77.5, Judgement on the Allegations of Contempt, 14 September 2009, para. 19.
7. *Prosecutor v. Aleksovski*, IT-95-14/1-AR77, Judgement on Appeal by Anto Nobile Against Finding of Contempt, 30 May 2001, para. 39.

ICTR – Publicly available online

8. ICTR Rules of Procedure and Evidence, Rule 23bis(B).

National Laws – Already Disclosed on the Case File

New Zealand

9. New Zealand’s Guidelines for Judicial Conduct, paras. 50, 85-86.

United Kingdom

10. Code of Conduct of the Bar of England & Wales, para. 301(a)(ii)-(iii).

Books, Articles and Miscellaneous – Already Disclosed on the Case File

11. Julia Wallace, *KRT Defense Alleges Ex Parte Meetings*, CAMBODIA DAILY, 7 November 2011, p. 2.
12. Ang Udom & Michael G. Karnavas, *Andrew Cayley's Remarks 'Defensive and Deflective'*, CAMBODIA DAILY, 8 November 2011, p. 26.