

**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 IENG Sary**Filed to:** The Trial Chamber**Original language:** ENGLISH**Date of document:** 14 September 2012**CLASSIFICATION****Classification of the document  
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**IENG SARY'S RULE 87(4) RESPONSE TO THE OCP'S REQUEST TO CALL TCW-505, TCW-754, TCW-100, TCE-33, TCW-720, TCW-781 AND TCW-164  
TABLE OF AUTHORITIES**

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**All Defence Teams****All Civil Parties**

**Cambodian Law – ECCC Legal Compendium**

1. Constitution, Art. 38.

**ECCC Filings, Jurisprudence and Transcripts – Already Disclosed on the Case File**

2. Notice of Co-Prosecutors’ Position on Key Issues to be Discussed at 17 August 2012 Trial Management Meeting (with Confidential Annex A), 15 August 2012, E218/2.
3. IENG Sary’s Motion to Strike *Notice of Co-Prosecutors’ Position on Key Issues to be Discussed at 17 August 2012 Trial Management Meeting* and its Annex or, in the Alternative, Request to Respond, 16 August 2012, E218/3.
4. Transcript, 17 August 2012, E1/114.1, p. 18-23.
5. Severance Order Pursuant to Internal Rule 89<sup>ter</sup>, 22 September 2011, E124, para. 8.
6. Witness, Civil Party and Expert Summaries with Points of the Indictment – OCP, 23 February 2011, E9/13.1, p. 36-37, 51-52, 63, 92, 97-98.
7. Letter from OCIJ to IENG Sary Defence, “Re: Request for Information Concerning an Eventual Conflict of Interest,” 24 January 2008, A121/I, p. 2.
8. IENG Sary’s Application to Disqualify Co-Investigating Judge Marcel Lemonde & Request for a Public Hearing, 9 October 2009, 1, Annex A, p. 1-2.
9. Request for Information Concerning the Potential Existence of Conflict of Interest of OCIJ Investigator Stephen Heder, 30 January 2009, A252.
10. Order on Co-Prosecutors’ Request for Appointment of Experts, 23 February 2010, D281/3, para. 7 (emphasis added).

**ICTY Jurisprudence – Available on ICTY Website**

11. *Prosecutor v. Milutinović et al.*, IT-05-87-T, Decision on Prosecution Request for Certification of Interlocutory Appeal of Decision on Admission of Witness Philip Coo’s Expert Report, 30 August 2006, para. 1.

12. *Prosecutor v. Đorđević*, IT-05-87/1-T, Decision on Defence Notice under Rule 94bis, 5 March 2009, paras. 19-20.

### **Books and Articles**

13. BENEDICT KIERNAN, *HOW POL POT CAME TO POWER* (1985), IS4.24.
14. BENEDICT KIERNAN, *THE POL POT REGIME* (1996), IS4.25.
15. STEPHEN HEDER & BRIAN TITTEMORE, *SEVEN CANDIDATES FOR PROSECUTION: ACCOUNTABILITY FOR THE CRIMES OF THE KHMER ROUGE* (2004), D222/1.17.
16. *Safeguarding Judicial Independence in Mixed Tribunals: Lessons from the ECCC and Best Practices for the Future*, International Bar Association Report, September 2011, available at <http://www.ibanet.org/Search/Default.aspx?q=safeguarding>.
17. Stephen Heder, *The Personal Jurisdiction of the Extraordinary Chambers in the Courts of Cambodia as Regards Khmer Rouge “Senior Leaders” and Others “Most Responsible” for Khmer Rouge Crimes: A History and Recent Developments*, 26 April 2012, available at <http://www.cambodiatribunal.org/sites/default/files/reports/Final%20Revised%20Heder%20Personal%20Jurisdiction%20Review.120426.pdf>.
18. Stephen Heder, *Communist Party of Kampuchea Policies on Class and on Dealing with Enemies Among the People and Within the Revolutionary Ranks, 1960-1979: Centre, Districts and Grassroots*, 26 April 2012, available at <http://www.cambodiatribunal.org/sites/default/files/reports/Heder,%20CPK%20Policy%20on%20Class%20and%20Enemies,%20120426.pdf>.
19. Brad Adams, *Khmer Rouge Trial is Failing Cambodian Victims of Pol Pot’s Regime*, GUARDIAN, 23 November 2011, available at <http://www.hrw.org/news/2011/11/23/khmer-rouge-trial-failing-cambodian-victims-pol-pots-regime>.
20. JUDGE RICHARD MAY & MARIEKE WIERDA, *INTERNATIONAL CRIMINAL EVIDENCE 93* (Transnational Publishers, Inc. 2002) – *Already available on the Case File*.

21. Michael Lamport Commons, PhD, Patrice Marie Miller, EdD, & Thomas G. Gutheil, MD, *Expert Witness Perceptions of Bias in Experts*, 32 J. AM ACAD PSYCHIATRY L. 70, 70 (2004) – *Already available on the Case File.*
22. Nancy J. Brekke, Peter J. Enko, Gail Clavet, & Eric Seelau, *Of Juries and Court-Appointed Experts: The Impact of Nonadversarial versus Adversarial Expert Testimony*, 15(5) LAW & HUM. BEHAV. 451, 453 (1991) – *Already available on the Case File.*
23. Lawrence A. Ponemon, *The Objectivity of Accountants' Litigation Support Judgments*, 70(3) ACCOUNTING REV. 467 (1995) – *Already available on the Case File.*
24. Michael J. Saks, *Expert Witnesses, Nonexpert Witnesses, and Nonwitness Experts*, 14(4) LAW & HUM. BEHAV. 291, 309 (1990) – *Already available on the Case File.*