

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:** 27 September 2012**CLASSIFICATION****Classification of the document
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**IENG SARY'S REQUEST THAT THE TRIAL CHAMBER SEEK CLARIFICATION
FROM THE OCIJ AS TO THE QUESTIONING OF WITNESS NORNG SOPHANG
ON 17 FEBRUARY 2009 AND SUMMON THE OCIJ INVESTIGATORS TO GIVE
EVIDENCE REGARDING THIS INTERVIEW**

TABLE OF AUTHORITIES

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 Judge YA Sokhan
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 Judge Jean-Marc LAVERGNE
 Reserve Judge THOU Mony
 Reserve Judge Claudia FENZ

Co-Prosecutors:
 CHEA Leang
 Andrew CAYLEY

All Defence Teams**All Civil Parties**

Cambodian Law – ECCC Legal Compendium

1. Constitution, Art. 31.
2. Cambodian Code of Criminal Procedure, Art. 318.

ECCC Law – ECCC Legal Compendium

3. Establishment Law, Arts. 23 new, 33 new.
4. Agreement, Art. 12(2).
5. Internal Rules, Rules 21, 25, 51(1),(5), 67(1), 69(3), 76, 85(1), 93.

ECCC Jurisprudence and Filings – Already Disclosed on the Case File

6. IENG Sary's Request that the Trial Chamber Seek Clarification from the OCIJ as to the Existence of Any Record Relating to the Questioning of Witness Oeun Tan on 8 October 2008, 29 August 2012, E224.
7. IENG Sary's Request to Hear Evidence from the Interpreter Concerning Witness Phy Phoun's Second OCIJ Interview Whereby Irregularities Occurred Amounting to Subterfuge, 23 August 2012, E221.
8. Letter from IENG Sary Defence Team to Trial Chamber's Senior Legal Officer entitled "Objections to Witness Statement," 9 July 2012, E96/7/1.
9. Letter from IENG Sary Defence to Trial Chamber's Senior Legal Officer entitled "Mixed up / missing audio files on the Case File," 3 May 2012.
10. Letter from IENG Sary Defence to Trial Chamber's Senior Legal Officer entitled "Request for audio/video recordings of certain OCIJ witness interviews," 9 March 2012.
11. IENG Sary's Third Request for Investigative Action, 21 May 2009, D171, introduction, para. 3, 7, 28, 38.
12. Written Record of Interview, 18 February 2009, E3/64.
13. Rogatory Letter Completion Report, 10 September 2009, D200/1.

14. Co-Prosecutors' Request to Admit Witness Statements Relevant to Phase 1 of the Population Movement, 15 June 2012, E208.
15. Co-Prosecutors' Request to Admit Witness Statements Relevant to Phase 2 of the Population Movement and Other Evidentiary Issues with confidential Annexes 1, II, III and Public Annex IV, 5 July 2012, E208/2.
16. Co-Prosecutors' Further Request to Put Before the Chamber Written Statements and Transcripts with Confidential Annexes 1 to 16, 27 July 2012, E96/8.
17. Pre-Trial Chamber Decision on Appeal and Further Submissions in Appeal against OCIJ Order on NUON Chea's Request for Interview of Witnesses, 20 September 2010, D375/1/8, para. 57 and fn 92.
18. OCIJ Order on NUON Chea's Request for Interview of Witnesses, 9 April 2010, D375, para. 8.
19. Order on Request for Transcription, 5 November 2009, D194/2, para. 4.
20. Letter from the OCIJ to the Defence, "Your 'Request for Investigative Action', Concerning, Inter Alia, the Strategy of the Co-Investigating Judges in Regard to the Judicial Investigation," 11 December 2009, D171/5, paras. 26, 33.
21. Letter from the OCIJ to the NUON Chea Defence re: Response to your letter dated 20 December 2007 concerning the conduct of the judicial investigation, 10 January 2008, A110/I, p. 2.
22. Closing Order, D427, para. 3.
23. Letter from the OCIJ to the NUON Chea Defence re: Response to your letter dated 20 December 2007 concerning the conduct of the judicial investigation, 10 January 2008, A110/1, p. 2.
24. IENG Sary's Submissions Pursuant to the *Decision on Expedited Request of Co-Lawyers for a Reasonable Extension of Time to File Challenges to Jurisdictional Issues*, 7 April 2008, C/22/I/26.

25. IENG Sary's Response to the Co-Prosecutors' Rule 66 Final Submission and Additional Observations, 1 September 2010, D390/1/2/1.3.
26. IENG Sary's Motion Against the Application of Command Responsibility at the ECCC, 15 February 2010, D345/2.
27. IENG Sary's Alternative Motion on the Limits of the Applicability of Command Responsibility at the ECCC, 15 February 2010, D345/3.
28. IENG Sary's Appeal Against the OCIJ's Order on IENG Sary's Motion Against the Application of Command Responsibility at the ECCC, 13 April 2010, D345/5/1.
29. IENG Sary's Motion against the Applicability of the Crime of Genocide at the ECCC, 30 October 2009, D240.
30. IENG Sary's Motion against the Application of Grave Breaches at the ECCC, 7 May 2010, D379.
31. IENG Sary's Response to the Co-Lawyers of Civil Parties' Investigative Request Concerning the Crime of Enforced Disappearance & Request for Extension of Page Limitation, 6 August 2009, D180/4.
32. IENG Sary's Response to the Co-Lawyers of Civil Parties' Investigative Request Concerning Forced Marriage and Forced Sexual Relations, 11 August 2009, D188/3.
33. IENG Sary's Motion against the Application of Crimes Against Humanity at the ECCC, 13 April 2010, D378.
34. IENG Sary's Alternative Motion on the Limits of the Applicability of Crimes Against Humanity at the ECCC, 23 June 2010, D378/2.
35. IENG Sary's Motion Against the Application of Crimes Listed in Article 3 new of the Establishment Law (National Crimes) at the ECCC, 10 June 2010, D382.
36. IENG Sary's Response to the Co-Prosecutors' Rule 66 Final Submission and Additional Observations, 1 September 2010, D390/1/2/1.3.
37. D200/3R, 01:25:00-01:26:00; 00:07:55-00:08:19.

38. D200/3R, 01:25:00-01:26:00.

39. D232/8R, 5:55-6:05.

Transcripts – *Already Disclosed on the Case File*

40. Transcript, 15 December 2011, E1/23.1, p. 21-23.

41. Transcript, 14 June 2012, E1/87.1, p. 53.

42. Transcript, 25 July 2012, E1/96.1, p. 64.

43. Transcript, 1 August 2012, E1/100.1, p. 62, 86.

44. Transcript, 29 August 2012, E1/117.1, p. 34-35, 65-66, 69, 73.

45. Transcript, 3 September 2012, E1/120.1, p. 13-14, 16-18, 22-23, 32, 34-35, 40, 58-62, 76, 85-87, 91-93.

46. Transcript, 4 September 2012, E1/121.1, p. 17-20, 34-36, 51-54, 57-59.

47. Transcript, 6 September 2012, E1/123.1, p. 29-38, 40-41, 43-46.

48. Draft Transcript, 20 September 2012, p. 63-64.

Codes of Ethics – *ECCC Legal Compendium*

49. ECCC Code of Judicial Ethics, Arts. 3(1), 5.

50. Bangalore Principles of Judicial Conduct (2002), Value 3, Value 6.2, 6.5.

International Conventions – *ECCC Legal Compendium*

51. International Covenant on Civil and Political Rights, Art. 14(3).

Miscellaneous – *Already Disclosed on the Case File*

52. The Judicial Integrity Group, Commentary on the Bangalore Principles of Judicial Conduct, March 2007, p. 9-18, available at <http://www.coe.int/t/dghl/cooperation/ccje/textes/BangalorePrinciplesComment.PDF>.

53. Andrew Cayley, *IENG Sary Defence Team Need Not Apologise for Doing Its Job*, CAMBODIA DAILY, 12 July 2011.