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EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

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**CO-PROSECUTORS' RESPONSE TO KHIEU SAMPHAN'S APPLICATION TO
DISQUALIFY THE SIX APPEAL JUDGES WHO ADJUDICATED CASE 002/01**

TABLE OF AUTHORITIES

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I. ECCC LAW

Core Legal Documents

(ECCC Legal Compendium – not included)

1. 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, Phnom Penh, 6 June 2003, art. 3.3.
2. Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea, 10 August 2001, with inclusion of amendments as promulgated on 27 October 2004 (NS/RKM/1004/006) (“ECCC Law”), arts 36new, 39.
3. Extraordinary Chambers in the Courts of Cambodia, Internal Rules (Rev. 9) as revised on 16 January 2015 (“Internal Rules”), Rules 96(1), 98(2), 101, 102, 102(1), 104(4)(a), 104bis, 105(1)(b), 110(2), 111(6).

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4. Code of Judicial Ethics, adopted at the Plenary Session of the Extraordinary Chambers in the Courts of Cambodia on 31 January 2008 and amended on 5 September 2008, arts 2.1, 7.1. **(Authority 1)**

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5. Case 001-F28 Appeal Judgement, 3 February 2012 (“*Duch* AJ”), paras 91, 95-97, 280, 331-334, 336, 375, fn. 735. *(Exceeds 10 pages – excerpt attached)* **(Authority 2)**
6. Special SC02-1/4 Decision on Ieng Thirith’s Application to Disqualify Judge Som Sereyvuth for Lack of Independence, 3 June 2011, para. 10.
7. **E163/5/1/13** Decision on the Co-Prosecutors’ Immediate Appeal of the Trial Chamber’s Decision Concerning the Scope of Case 002/01, 8 February 2013 (“First Severance Appeal Decision”), paras 24, 43, 49, 51, 52.
8. **E284/4/7** Decision on Immediate Appeals Against Trial Chamber’s Second Decision on Severance of Case 002 (Summary of Reasons), 23 July 2013, paras 6-7, 13.
9. **E284/4/7/1** Order Regarding the Establishment of a Second Trial Panel, 23 July 2013.
10. **E284/4/8** Decision on Immediate Appeals Against Trial Chamber’s Second Decision on Severance of Case 002 [full reasons], 25 November 2013 (“Second Severance Appeal Decision”), paras 25, 37-38, 43-44, 50-52, 73-74, 76.

11. **E301/9/1/1/3** Decision on Khieu Samphan’s Immediate Appeal Against the Trial Chamber’s Decision on Additional Severance of Case 002 and Scope of Case 002/02, 29 July 2014 (“Third Severance Appeal Decision”), paras 35, 39, 53-55, 61, 63-86, 90-91.
12. **E463/1/3** Decision on Khieu Samphan’s Urgent Appeal against the Summary of Judgement Pronounced on 16 November 2018, 13 February 2019 (“Decision on Urgent Appeal”), paras 6, 9, 12, 14, 16-18.
13. **E463/1/5** Decision on Khieu Samphan’s Request for Annulment of Decision E463/4/3 on his Urgent Appeal against the Judgement of 16 November 2018, 16 August 2019 (“Decision on Annulment Request”), paras 4-6.
14. **F30** Order Scheduling the Appeal Hearing, 9 October 2015.
15. **F36** Appeal Judgment, 23 November 2016 (“Case 002/01 AJ”), paras 112, 227, 387-388, 395-410, 436, 448, 454, 471-472, 483, 522, 541, 557-562, 761-762, 767-810, 838, 840-843, 923-972, 1009, 1023, 1028, 1053-1054, 1080, 1097, 1099, 1117-1118, 1120, fns 1004, 1983, 2975, Disposition.
16. **F38** Order Appointing Reserve Judge, 13 February 2019.
17. **F53/3** Decision on the Co-Prosecutors and Civil Party Urgent Requests for Extension of Time to Respond to Khieu Samphan’s Disqualification Request, 15 November 2019, para. 13.

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22. **D97/15/9** Decision on the Appeals Against the Co-Investigative Judges Order on Joint Criminal Enterprise, 20 May 2010, paras 37, 39.
23. **D427/1/30** Decision on Ieng Sary’s Appeal Against the Closing Order, 11 April 2011, para. 235.

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31. **E301/5/5/1** Decision on Khieu Samphan Request to Postpone Commencement of Case 002/02 until a Final Judgement is Handed Down in Case 002/01, 21 March 2014, para. 12.
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33. **E313** Case 002/01 Judgment, 7 August 2014 (“Case 002/01 TJ”), paras 412, 646-648, 690, 694, 779-781, 786, 804-813, 838, 943, 960-996, 1072.
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36. **E465** Case 002/02 Judgement, 16 November 2018 (“Case 002/02 TJ”), para. 13.

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42. *Prosecutor v. Blaškić*, IT-95-14-T, Judgement, Trial Chamber, 3 March 2000, para. 217. (*Exceeds 10 pages – excerpt attached*) (**Authority 8**)
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45. *Prosecutor v. Delalić et al.*, IT-96-21-A, Judgement, Appeals Chamber, 20 February 2001 (“*Čelebići AJ*”), paras 697, 707. (*Exceeds 10 pages – excerpt attached*) (**Authority 11**)
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50. *Prosecutor v. Kordić & Čerkez*, IT-95-14/2-A, Judgement, Appeals Chamber, 17 December 2004, para. 113. (*Exceeds 10 pages – excerpt attached*) (**Authority 16**)
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65. *The Prosecutor v. Akayesu*, ICTR-96-4-T, Judgement, Trial Chamber, 2 September 1998, para. 589. (*Exceeds 10 pages – excerpt attached*) (**Authority 26**)
66. *The Prosecutor v. Bagosora et al.*, ICTR-98-41-T, Decision on Motion for Disqualification of Judges, ICTR Bureau, 28 May 2007 (“*Bagosora Disqualification Decision*”), paras 7, 10. (**Authority 27**)
67. *The Prosecutor v. Bikindi*, ICTR-01-72-T, Judgement, Trial Chamber, 2 December 2008, para. 429. (*Exceeds 10 pages – excerpt attached*) (**Authority 283**)
68. *Prosecutor v. Gacumbitsi*, ICTR-2001-64-A, Judgement, Appeals Chamber, 7 July 2006, para. 204. (*Exceeds 10 pages – excerpt attached*) (**Authority 29**)
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71. *Nahimana et al. v. The Prosecutor*, ICTR-99-52-A, Judgement, Appeals Chamber, 28 November 2007 (“*Nahimana AJ*”), paras 48-50, 78. (*Exceeds 10 pages – excerpt attached*) (**Authority 37**)

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76. *Prosecutor v. Karadžić*, MICT-13-55-A, Decision on Motion for Disqualification and Motion Challenging Jurisdiction, Special Panel, 28 October 2019, fn. 40. (**Authority 34**)
77. *Prosecutor v. Mladić*, MICT-13-56-A, Decision on Prosecution Appeal of the Acting President’s Decision of 13 September 2018, Appeals Chamber, 4 December 2018, paras 12-19. (**Authority 353**)
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III. REGIONAL LAW

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86. *Case of Khodorokovskiy and Lebedev v. Russia*, Nos. 11082/06 and 13772/05, Judgment, 25 July 2013 (“*Khodorokovskiy Judgment*”), paras 546-556. (*Exceeds 10 pages – excerpt attached*) (**Authority 41**)
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88. *Case of Mancel and Branquart v. France*, No. 22349/06, Judgment, 24 June 2010 (“*Mancel and Branquart*”), paras 21-22, 27-28, 39. (*French only - exceeds 10 pages – excerpt attached*) (**Authority 43**)
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93. *Case of Schwarzenberger v. Germany*, No. 75737/01, Judgment, 10 August 2006 (“*Schwarzenberger Judgment*”), paras 43-45. (*Exceeds 10 pages – excerpt attached*) (**Authority 59**)
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