

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 December 2012**CLASSIFICATION****Classification of the document
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**IENG SARY'S SUBMISSIONS ON THE LAW PERMITTING HIM TO BE AUDIO
AND / OR VIDEO RECORDED IN THE HOLDING CELL
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Judge YA Sokhan

Judge Silvia CARTWRIGHT

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. Cambodian Constitution, Art. 31, 38.
2. Cambodian Code of Ethics for Lawyers Licensed with the Bar Association of the Kingdom of Cambodia (2004), Art. 6.
3. Cambodian Law on the Statutes of the Bar (1995), Art. 34.

ECCC Law – ECCC Legal Compendium

4. Agreement, Art. 13(1).
5. Establishment Law, Art. 35 new (b), (d).
6. Internal Rules 21(1)-(2), 22(4), 92.

ECCC Filings and Jurisprudence – available on the Case File

7. Decision on Appeal Concerning Contact Between the Charged Person and his Wife, 30 April 2008, A104/II/7, paras. 15-17.
8. Decision on the IENG Thirith Defence Appeal Against ‘Order on Requests for Investigative Action by the Defence for Ieng Thirith’ of 15 March 2010, 14 June 2010, D353/2/3, paras. 24-26.
9. Decision on IENG Sary’s Appeal Against Co-Investigating Judges’ Order Denying Request to Allow Audio/Video Recording of Meetings with IENG Sary at the Detention Facility, 11 June 2010, A371/2/12, paras. 31-33, 35, 37, 39.
10. *Case of Kaing Guek Eav alias Duch*, 001/18-07-2007/ECCC/SC, Appeal Judgement, 3 February 2012, para. 20.
11. Decision on Application for Disqualification of Judge Silvia Cartwright, 9 March 2012, E171/2, para. 14.
12. Decision on Rule 35 Applications for Summary Action, 11 May 2012, E176/2, paras. 16-18.

13. IENG Sary's Limited Waiver of Right to be Present During Court Proceedings, 18 September 2012, E229.
14. IENG Sary's Limited Waiver of Right to be Present During Court Proceedings, 1 October 2012, E237.
15. IENG Sary's Limited Waiver of Right to be Present During Court Proceedings, 30 October 2012, E237/1.
16. Decision on Accused IENG Sary's Fitness to Stand Trial, 26 November 2012, E238/9, paras. 36-37.
17. IENG Sary's Withdrawal of Waivers of Right to be Present, 3 December 2012, E237/2.
18. Observation Log concerning Mr. Ieng Sary's ability to follow the proceedings and participate in his Defence 4 December 2012, 5 December 2012, E248/2.1.
19. IENG Sary's Notice of Withdrawal of Waivers of Right to be Present During the Testimony of Certain Witnesses and Civil Parties, 6 December 2012, E249.
20. Observation Log concerning Mr. Ieng Sary's ability to follow the proceedings and participate in his Defence 5 December 2012, 7 December 2012, E248.1.
21. Observation Log concerning Mr. Ieng Sary's ability to follow the proceedings and participate in his Defence 6 December 2012, 7 December 2012, E248/1.1.
22. Trial Chamber Memorandum titled "Order for Submission", 12 December 2012, E254.

ECCC Transcripts – available on the Case File

23. Transcript, 4 December 2012, E1/147.1, p. 3-5, 10-14, 17-21, 27-28.
24. Transcript, 5 December 2012, E1/148.1, p. 2, 36-38.
25. Draft Transcript, 11 December 2012, p. 2-4.

ECCC Correspondence – available upon request

26. Email from Trial Chamber Legal Officer to the Defence, “Re: Letter from Ieng Sary Defence in response to the report from the Detention Facility”, 7 December 2012.

International Jurisprudence

ICTY – publicly available online

27. *Prosecutor v. Milošević*, IT-02-54-AR73.7, Decision on Interlocutory Appeal of the Trial Chamber’s Decision on the Assignment of Defense Counsel, Appeals Chamber, 1 November 2004, para. 17.
28. *Prosecutor v. Stanišić & Simatović*, IT-03-69-AR73.2, Decision on Defence Appeal of the Decision on Future Course of Proceedings, 16 May 2008, paras. 16-20.

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29. *Zigiranyirazo v. Prosecutor*, ICTR-2001-73-AR73, Decision on Interlocutory Appeal, 30 October 2006, para. 14.

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30. *Airey v. Ireland*, Appl. No. 6289/73, Judgement, 9 October 1979, para. 24.
31. *Kutić v. Croatia*, Appl. No. 48778/99, Judgement, 1 March 2002, para. 25.
32. *Sukhorubchenko v. Russia*, Appl. No. 69315/01, Judgement, 10 February 2005, para. 43.
33. *Galstyan v. Armenia*, Appl. No. 26986/03, Judgement, 15 November 2007, paras. 81, 84.

United States – available through ECCC Library databases

34. *Protect Our Water et al. v. County of Merced*, 110 Cal. App. 4th 362, 364 (2003).

International and Regional Covenants and Commentary – ECCC Legal Compendium

35. Universal Declaration of Human Rights, Art. 11(1).
36. International Covenant on Civil and Political Rights, Art. 14(3)(b), (d).

37. European Convention on Human Rights and Fundamental Freedoms, Art. 6(3)(b), (d).

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38. The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, Commission on Human Rights, *Note Verbale dated 24 August 1984 from the Permanent Representative of the Netherlands to the United Nations Office at Geneva Addressed to the Secretary General*, UN Doc. E/CN.4/1985/4, Annex, 28 September 1984, para. 70.

39. United Nations Basic Principles on the Role of Lawyers, adopted by the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 27 August – 7 September 1990, Principle 13(a).

40. Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, CCPR/C/GC/32, 23 August 2007, paras. 9, 31, 33-34.

41. Office of the United Nations High Commissioner for Human Rights, Human Rights Committee, website, *available at* <http://www2.ohchr.org/english/bodies/hrc/>.

42. United Nations Treaty Collection, website, *available at* http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#3.