

**BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

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**NUON CHEA APPLICATION FOR DISQUALIFICATION OF
JUDGE PEN PICHSAHY
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I. CAMBODIAN / ECCC LAW

A. Cambodian Laws

1. The Constitution of the Kingdom of Cambodia, 21 September 1993: Articles 51(5), 130
2. Royal Decree No. 0914/1113 dated 6 September 2014 (*Included*)

B. ECCC Key Legal Documents

3. 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): Article 10 (new)
4. Internal Rules (Rev.8), Extraordinary Chambers in the Courts of Cambodia, as revised 3 August 2011: Rules 34, 34(2), 34(3), 34(4)(c), 34(5)

C. ECCC Decisions and Orders

(i) Supreme Court Chamber

5. Doc. No. **E314/4**, ‘Decision of the JAC regarding the constitution of the bench following disqualification motions’, 4 September 2014.

(ii) Trial Chamber

6. Doc. No. **E313**, ‘Case 002/01 Judgement’, 7 August 2014.

D. ECCC Motions

7. Doc. No. **E314.1**, ‘Notice and requests regarding prospective motion for disqualification’, 11 August 2014.
8. Doc. No. **E314/1**, ‘Demande de réexamen de M. Khieu Samphan sur la nécessité d’attendre un jugement définitif dans le procès 002/01 avant de commencer le procès 002/02 et sur la nomination d’un nouveau collège de juges’, 25 August 2014.
9. Doc. No. **E314/6**, ‘Nuon Chea Application for Disqualification of Judges Nil Nonn, Ya Sokhan, Jean-Marc Lavergne and You Ottara’, 29 September 2014.

II. INTERNATIONAL AND REGIONAL LAW

A. Treaties and Instruments

10. American Convention on Human Rights, OAS Treaty Series, No. 36, adopted 22 November 1969, entered into force 18 July 1978: Article 8(1)
11. African Court on Human and Peoples Rights, Article 7(1)
12. Convention for the Protection of Human Rights and Fundamental Freedoms, 213 UNTS 221, *opened for signature* 4 November 1950, *entered into force* 3 September 1953, *as amended by* Protocols Nos. 11 and 14: Article 6(1)
13. International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23 1976: Article 14(1)
14. Statute of the Special Tribunal for Lebanon, UN Security Council, as adopted by SC/Res/1664 (2006): Article 9(1)
15. Rome Statute of the International Criminal Court, 2187 UNTS 38544, 17 July 1998, entered into force 1 July 2002: Article 40
16. Universal Declaration on Human Rights, UN General Assembly, A/RES/217A (III), 10 December 1948: Article 10

B. Jurisprudence

(i) International Criminal Tribunal for Rwanda *(Not included – available on ICTR website)*

17. *Prosecutor v. Nahimana et al.*, ICTR Trial Chamber (ICTR-99-52-A), Judgement, 28 November 2007, paras. 28, 47

(ii) International Criminal Tribunal for the former Yugoslavia *(Not included – available on ICTY website)*

18. *Prosecutor v. Furundžija*, ICTY Appeals Chamber (IT-02-61-A), Appeal Judgement, 16 November 1998, para. 177

(iii) ECtHR Cases *(Not included – cases available on ECHR website)*

19. *Findlay v. United Kingdom*, ECtHR (Application No. 22107/93), Judgement, 27 February 1997, para. 73
20. *Volkov v. Ukraine*, ECtHR (Application No. 21722/11), Judgement, 27 May 2013, paras. 103, 113

(iv) Other Cases

21. *González del Río v. Peru*, UN HRC (Communication No. 263/1987), Decision, 28 October 1992, para. 5.2 (*Available on ECCC Case File: Doc. No. D158/5/2/10.24; ERN 00335415-00335419*)

IV. SECONDARY SOURCES

22. Office of the High Commissioner for Human Rights in cooperation with the International Bar Association, *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyer's* (Document No. HR/P/PT/9, UN, 2003), pg. 118 (*Available on ECCC Case File: Doc. No. E314/6.13; ERN 01028961-01028961*)