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BEFORE THE OFFICE OF THE CO-INVESTIGATING JUDGES

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

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CO-LAWYERS' RESPONSE TO INTERNATIONAL CO-PROSECUTOR'S SUPPLEMENTARY SUBMISSIONS ON CONFLICT OF INTEREST OF CO-LAWYERS-DESIGNATE

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Cambodian Law – ECCC Legal Compendium

1. Cambodian Constitution, Art. 38.

ECCC Law - ECCC Legal Compendium

- 2. Agreement, Art. 13(1).
- 3. Establishment Law, Art. 35 new (d).

ECCC Filings, Jurisprudence and Transcripts - Available on Case File

- 4. Second Decision and Re-Scheduling Order Concerning Request for Appointment of Co-Lawyers-Designate, 19 March 2013, D56/5.
- 5. International Co-Prosecutor's Supplementary Submissions on Conflict of Interest of Co-Lawyers-Designate, 3 April 2013, D56/7.
- 6. Request that Appointment of Co-Lawyers Designate be Rejected on the Basis of Irreconcilable Conflict of Interest, 24 December 2012, D56/1.
- 7. Decision and Scheduling Order Concerning Request For Appointment of Co-Lawyers-Designate, 11 February 2013, D56/3.
- 8. Re-Scheduling Order Concerning Request For Appointment of Co-Lawyers-Designate, 28 February 2013, D56/4.
- 9. International Co-Prosecutor's Request to Reschedule Submissions, 15 March 2013, D56/4/3.
- 10. Co-Lawyers' Leave to Extend Page Limitation and Submissions of the Co-Lawyers on Potential Conflict of Interest in Representation of Mr. MEAS Muth in Case 003, 4 March 2013, D56/4/1, paras. 42-44.
- 11. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC-TC, IENG Sary's Request for Investigation Concerning *Ex Parte* Between the International Co-Prosecutor, Judge Cartwright and Others, 24 November 2011, E137/3.



- 12. Case of NUON Chea et al., 002/19-09-2007-ECCC-TC, IENG Sary's Appeal Against the Trial Chamber's Decision on Motions for Disqualification of Judge Silvia Cartwright, 5 January 2012, E137/5/1/1.
- 13. Case of NUON Chea et al., 002/19-09-2007-ECCC-TC, IENG Sary's Rule 34 Application for Disqualification of Judge Cartwright Or, in the Alternative, Request for Instruction and Order to Cease Ex Parte Communications & Request for Disclosure of Ex Parte Communications, 27 April 2012, E191.
- 14. Case of NUON Chea et al., 002/19-09-2007-ECCC-TC, IENG Sary's Request for Information Concerning TCE-33, 11 December 2012, E236/2/2.
- 15. Case of NUON Chea et al., 002/19-09-2007-ECCC-TC, Co-Prosecutors' Request to Hear a Further 2 Experts and 13 Witnesses in the First Phase of the Trial and Notice of Intention to Put 7 Video-Clips Relating to Nuon Chea Before the Trial Chamber Pursuant to Rule 87(4), 5 July 2011, E93/7, para. 9.
- 16. Case of NUON Chea et al., 002/19-09-2007-ECCC-OCIJ, Request for Information Concerning Potential Conflict of Interest, 10 January 2008, A121.
- 17. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC-OCIJ, OCIJ Letter to the Defence titled Request for Information Regarding an Eventual Conflict of Interest, 24 January 2008, A121/I, p. 1.
- 18. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC-TC, Decision on IENG Sary's Appeal Against the Trial Chamber's Decision on Motions for Disqualification of Judge Silvia Cartwright, 17 April 2012, E137/5/1/3, para. 24.
- 19. Case of NUON Chea et al., 002/19-09-2007-ECCC-TC, Transcript, 3 April 2012, E1/58.1, p. 74.
- 20. Case of NUON Chea et al., 002/19-09-2007-ECCC-TC, Co-Prosecutors' Request for Leave to Provide Assurances with Respect to Non-Prosecution for Witnesses, 30 May 2012, E200.



21. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC-TC, IENG Sary's Response to the Co-Prosecutors' Request for Leave to Provide Assurances with Respect to Non-Prosecution for Witnesses, 20 June 2012 E200/1.

ICTY Law and Jurisprudence – Available on ICTY Website

- 22. ICTY Statute, Art. 18(2).
- 23. ICTY Rules of Procedure and Evidence, Rules 39, 54bis, 70.
- 24. *Prosecutor v. Blagojević & Jokić*, IT-02-60, Decision on Vidoje Blagojevic's Motion to Compel the Prosecution to Disclose its Notes from Plea Discussions with the Accused Nikolic & Request for an Expedited Open Session Hearing, 13 June 2003.

Miscellaneous

- 25. Wikipedia page, available at http://en.wikipedia.org/wiki/Andrew Cayley.
- 26. www.antegotovina.com.
- 27. Doughty Street Chambers website, *available at* http://www.doughtystreet.co.uk/barristers/associate_tenants/tenant_details.cfm?iTenn antID=346.
- 28. ECCC Press Release titled "Mr. ANG Udom and Mr. Michael G. Karnavas assigned as defence counsel to represent a suspect in Case 003", 14 December 2012, *available at* http://www.eccc.gov.kh/en/articles/mr-ang-udom-and-mr-michael-g-karnavas-assigned-defence-counsel-represent-suspect-case-003.
- 29. International Co-Prosecutor's press releases *available at* http://www.eccc.gov.kh/en/media-center/press-releases.
- 30. Previous website for the IENG Sary Defence team, *available at* https://sites.google.com/site/IENGsarydefence/.
- 31. Defence Press Release on OCIJ Order on Breach of Confidentiality, 4 March 2009.
- 32. Defence Press Release on Removal of Defence Filings from Website, 8 March 2009.



- 33. International Co-Lawyer Michael G. Karnavas's letter to the Alaska Bar Association in response to a grievance filed by the Office of the Co-Investigating Judges, titled "Response to grievance concerning *Order of Breach of Confidentiality of the Judicial Investigation* which the Alaska Bar Association received on March 12, 2009 from the Extraordinary Chambers in the Courts of Cambodia", 24 April 2009, *available at* www.iengsarydefence.org.
- 34. Press Releases by International Co-Prosecutor Cayley, Statement from the International Co-Prosecutor Regarding Case File 003, 9 May 2011.
- 35. Statement by the International Co-Prosecutor, Statement by the International Co-Prosecutor Regarding Case File 003 Regarding Case File 004, 5 August 2011.
- 36. Appeal by the International Co-Prosecutor Regarding the Rejection of Investigative Requests in Case File 003, 19 August 2011.
- 37. James O'Toole, *Cayley in the Crosshairs*, Phnom Penh Post, 13 May 2011 *Attachment 1*.
- 38. Letter to US Secretary of State, Hillary Rodham Clinton, 27 July 2011, *available at* https://sites.google.com/site/IENGsarydefence/.
- 39. Letter to Editor, FOREIGN POLICY, 27 July 2011, *available at* https://sites.google.com/site/IENGsarydefence/.
- 40. Open Society Justice Initiative, *Recent Developments at the Extraordinary Chambers of the Courts of Cambodia*, February 2012, *available at* http://www.soros.org/sites/default/files/cambodia-eccc-20120233.pdf.

