

**BEFORE THE SUPREME COURT CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

**FILING DETAILS**

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**YIM TITH'S REQUEST FOR LEAVE TO INTERVENE IN  
CASE 004/02 ON THE JURISDICTION OF THE SUPREME COURT CHAMBER**

**TABLE OF AUTHORITIES**

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**CAMBODIAN LAW****Core Legal Documents***ECCC Legal Compendium – not attached*

1. Code of Criminal Procedure of The Kingdom of Cambodia, Articles 280, 281.

**ECCC LAW****Core Legal Documents***ECCC Legal Compendium – not attached*

2. 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, 6 June 2003, Article 12.
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 33<sup>new</sup>.
4. Extraordinary Chambers in the Courts of Cambodia, Internal Rules (Rev. 9) as revised 16 January 2015, Rules 2, 67, 76, 77, 87, 104.
5. Practice Direction on Filing of Documents Before the ECCC, ECCC/01/2007/Rev.8, Article 7.2.

**Jurisprudence***ECCC Case Files – not attached****Case 004***

6. *Call for Submissions by the Parties in Cases 003 and 004 and Call for Amicus Curiae Briefs*, 19 April 2016, D306.
7. *Request for Submissions on the Budgetary Situation of the ECCC and its Impact on Cases 003, 004, and 004/2*, 5 May 2017, D249.
8. *Decision on YIM Tith's Application to Annul the Investigative Material Produced by Paolo Stocchi*, 25 August 2017, D351/1/4.

9. *Decision on the International Co-Prosecutor's Appeal of Decision on request for request for Investigative Action regarding sexual violence at Prison No. 8 and in Bakan District*, 13 February 2018, D365/3/1/5.
10. *Notice from the International Co-Investigating Judge to the Parties Regarding Re-Issue of Decisions Taken by Judge Harmon on or After 31 July 2015*, 8 September 2015, D262.
11. *Further Decision on the Urgent Request on Remote Working*, 29 August 2016, D321/4.

#### **Case 004/01**

12. *Case 004/01, Order on IM Chaem's Urgent Application to Seize the Pre-Trial Chamber with a Request for Annulment of Her and Her Co-Lawyers' Summonses*, 18 August 2014, D207/1.

#### **Case 004/02**

13. *Case 004/02, Considerations on Appeals Against Closing Orders*, 19 December 2019, D359/24 and D360/33.
14. *Case 004/02, Decision on AO An's Request for Clarification*, 5 September 2017, D369.

#### **Case 003**

15. *Case 003, Decision on MEAS Muth's Appeal against Co-Investigating Judge Harmon's Notification of Charges against MEAS Muth*, 3 February 2016, D128.1/1/11.

#### **Case 002**

16. *Case 002, Decision on NUON Chea's Appeal against Order Refusing Annulment*, 26 August 2008, D55/I/8.
17. *Case 002, Decision on IENG Sary's Request to Make Submissions on the Application of the Theory of Joint Criminal Enterprise in the Co-Prosecutors' Appeal of the Closing Order against Kaing Guek Eav 'Duch'*, 6 October 2008, D99/3/19.
18. *Case 002/01, Decision on Ieng Sary's Appeal Against the Closing Order*, 11 April 2011, D427/1/30.

19. Case 002/01, *Decision on Immediate Appeal by KHIEU Samphan on Application for Release*, 6 June 2011, E50/3/1/4.
20. Case 002, *Decisions on Requests to Intervene or Submit Amici Curiae Briefs in Case 002/01 Appeal Proceedings*, 8 April 2015, F20/1.

#### **Case 001**

21. Case 001, *Decision on Appeal against Closing Order Indicting Kaing Guek Eav, alias "DUCH,"* 5 December 2008, D99/3/42.

#### **ECCC Press Releases** *Published on the ECCC Website – not attached*

22. ECCC Press Release, *Statement of the Judges of the Trial Chamber of the ECCC Regarding Case 004/2 Involving AO An*, 3 April 2020.

### **INTERNATIONAL LAW**

#### **Statutory Documents, Rules of Procedure and Evidence, and Codes of Conduct of the International Tribunals and Supra-National Human Rights Bodies**

##### ***International Criminal Tribunal of Rwanda***

23. ICTR Rules of Procedure and Evidence, as amended 13 May 2015, Rule 73. *[Document exceeds 10 pages – extract provided] – Attachment 1*

##### ***International Criminal Tribunal for the former Yugoslavia***

24. ICTY Rules of Procedure and Evidence, Rev. 50, 8 July 2015, Rule 73. *[Document exceeds 10 pages – extract provided] – Attachment 2*
25. Code of Professional Conduct for Counsel Appearing Before the International Tribunal, IT/125, Rev. 3, 6 August 2009, Article 25. *[Document exceeds 10 pages – extract provided] – Attachment 3*

##### ***Special Tribunal for Lebanon***

26. STL Rules of Procedure and Evidence, STL-BD-2009-01-Rev.10, 10 April 2019, Rule 131. *[Document exceeds 10 pages – extract provided] – Attachment 4*

##### ***International Criminal Court***

27. Rules of Procedure and Evidence of the International Criminal Court, as amended by resolution ICC-ASP/12/Res.7, Rule 103. *[Document exceeds 10 pages – extract provided] – Attachment 5*

***European Court of Human Rights***

28. European Convention on Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, Article 36. *[Document exceeds 10 pages – extract provided] – Attachment 6*
29. Rules of Court of the European Court of Human Rights, Rule 44. *[Document exceeds 10 pages – extract provided] – Attachment 7*

**Jurisprudence of the International Tribunals and Supra-National Human Rights Bodies**

***International Criminal Tribunal of Rwanda***

30. ICTR Trial Chamber, *Prosecutor v. Ntuyahaga* (ICTR-98-40-T), ‘Declaration on a Point of Law,’ 22 April 1999 – ***Attachment 8***
31. ICTR Trial Chamber, *Prosecutor v. Muhimana* (ICTR-95-1B-I), ‘Decision on the Defence Motion for the Annulment of the Initial Appearance,’ 20 March 2000 – ***Attachment 9***
32. ICTR Trial Chamber, *Prosecutor v. Karemera et al.* (ICTR-98-44-AR73), ‘Decision on Prosecutor’s Interlocutory Appeal Against Trial Chamber III Decision of 8 October 2003 Denying Leave to File An Amended Indictment,’ 19 December 2003. *[Document exceeds 10 pages – extract provided] – Attachment 10*
33. ICTR Appeals Chamber, *Prosecutor v. Nahimana et al.* (ICTR-99-52-A), ‘Decision on Appellant Jean-Bosco Barayagwiza’s Motions for Leave to Submit Additional Grounds of Appeal, To Amend the Notice of Appeal and to Correct his Appellant’s Brief,’ 17 August 2006. *[Document exceeds 10 pages – extract provided] – Attachment 11*
34. ICTR Appeals Chamber, *Prosecutor v. Karemera and Ngirumpatse* (ICTR-98-44-AR73.19), ‘Decision on Matthieu Ngirumpatse’s Appeal Against a Sanction Imposed on Counsel by Trial Chamber’s Decision of 1 September 2010,’ 21 March 2011 – ***Attachment 12***

***International Criminal Tribunal for the former Yugoslavia***

35. ICTY Appeals Chamber, *Prosecutor v. Kupreškić et al.* (IT-95-16-AR73.3), ‘Decision on Appeal by Dragan Papić against Ruling to Proceed by Deposition,’ 15 July 1999. *[Document exceeds 10 pages – extract provided]* – **Attachment 13**
36. ICTY Trial Chamber, *Prosecutor v. Brđanin and Talić* (IT-99-36-T), ‘Decision on Request for Certification to Appeal Against the Decision to Separate Trials and on Motion to Extend Time Limit for Filing Brief in Support of Request for Certification to Appeal Trial Chamber,’ 3 October 2002 – **Attachment 14**
37. MICT Trial Chamber, *Prosecutor v. Nikolić* (MICT-14-65-ES), ‘Public Redacted Version of the 27 January 2017 Decision on Ratko Mladić’s Requests for Leave to Reply and Reconsideration or, Alternatively, Certification or Disqualification,’ 6 June 2018. *[Document exceeds 10 pages – extract provided]* – **Attachment 15**
38. MICT Appeals Chamber, *Prosecutor v. Karadžić* (MICT-13-55-A), ‘Order on Motion to Disqualify Judge Theodor Meron,’ 2 October 2018 – **Attachment 16**

***Special Court for Sierra Leone***

39. SCSL Appeals Chamber, *Prosecutor v. Norman* (SCSL-2004-14-AR72(E)), ‘Decision on Preliminary Motion Based on Lack of Jurisdiction (Judicial Independence),’ 13 March 2004. *[Document exceeds 10 pages – extract provided]* – **Attachment 17**
40. SCSL Appeals Chamber, *Prosecutor v. Kallon & Kamara* (SCSL-2004-15-AR72(E)), ‘Decision on Challenge to Jurisdiction: Lomé Accord Amnesty,’ 13 March 2004. *[Document exceeds 10 pages – extract provided]* – **Attachment 18**
41. SCSL Appeals Chamber, *Prosecutor v. Norman* (SCSL-2004-14-AR72(E)), ‘Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment),’ 31 May 2004. *[Document exceeds 10 pages – extract provided]* – **Attachment 19**

***Special Tribunal for Lebanon***

42. STL Contempt Judge, *In the case against Al Jadeed [Co.] S.A.L. / New T.V. S.A.L. (N.T.V.) and Karma Mohamed Tahsin Al Khayat* (F0054), ‘Decision on Motion Challenging Jurisdiction and on Request for Leave to Amend Order in Lieu of an

Indictment,’ 24 July 2014. *[Document exceeds 10 pages – extract provided]* – **Attachment 20**

### ***International Criminal Court***

43. ICC, *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* (ICC-01/09-01/11-1313), ‘Decision on defence applications for leave to appeal the “Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation” and the request of the Government of Kenya to submit amicus curiae observations,’ 23 May 2014. *[Document exceeds 10 pages – extract provided]* – **Attachment 21**

44. ICC, *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* (ICC-01/09-01/11-1313-Anx-Corr), ‘Decision on defence applications for leave to appeal the “Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation” and the request of the Government of Kenya to submit amicus curiae observations,’ Partly dissenting opinion of Judge Eboe-Osuji, 23 May 2014. *[Document exceeds 10 pages – extract provided]* – **Attachment 22**

### ***European Court of Human Rights***

45. ECtHR, *A.T. v. Luxembourg*, Application No 30460/13, Judgment, 9 April 2015. *[Document exceeds 10 pages – extract provided]* – **Attachment 23**

## **FOREIGN DOMESTIC LAW**

### **France**

46. French Code of Criminal Procedure, Articles 174 and 206 [Légifrance Translation]. *[Document exceeds 10 pages – extract provided]* – **Attachment 24**

### **Republic of Korea**

47. Republic of Korea, Criminal Procedure Act, Act No. 9765, 9 June 2009, Article 327(2). *[Document exceeds 10 pages – extract provided]* – **Attachment 25**

### **United States of America**

48. *Romito v. Maxwell*, 227 N.E.2d, 223 (Ohio 1967) – **Attachment 26**

49. *State v. Bezak*, 868 N.E.2d 961 (Ohio 2007) – **Attachment 27**

50. *State v. Simpkins*, 884 N.E.2d 568 (Ohio 2008). [Document exceeds 10 pages – extract provided] – **Attachment 28**
51. *Ex parte Seidel*, 39 S.W.3d 221 (Tex. Crim. App. 2001) – **Attachment 29**

United Kingdom

52. *R (on the application of Miller) (Appellant) v The Prime Minister (Respondent) Cherry and others (Respondents) v Advocate General for Scotland (Appellant) (Scotland)*, [2019] UKSC 41. [Document exceeds 10 pages – extract provided] – **Attachment 30**
53. *R (on the application of UNISON) (Appellant) v Lord Chancellor (Respondent)*, [2017] UKSC 51. [Document exceeds 10 pages – extract provided] – **Attachment 31**
54. Supreme Court of the United Kingdom, The Supreme Court Rules 2009, 2009 No. 1603 (L. 17), coming into force 1 October 2009, Rule 26. [Document exceeds 10 pages – extract provided] – **Attachment 32**
55. Judicial Committee (Appellate Jurisdiction) Rules 2009, as amended, Rule 27. [Document exceeds 10 pages – extract provided] – **Attachment 33**

**BOOKS AND ARTICLES**

56. Garner B., [Ed.] *Black's Law Dictionary*, 9th edition, pp 921, 1099, 1173, and 1709. [Document exceeds 10 pages – extract provided] – **Attachment 34**