

**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:** 7 December 2012**CLASSIFICATION****Classification of the document  
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**IENG SARY'S REQUEST FOR RECONSIDERATION OF THE TRIAL  
CHAMBER'S DECISION FINDING HIM FIT TO STAND TRIAL AND REJECTING  
HIS REQUEST FOR THE APPOINTMENT OF AN ADDITIONAL EXPERT TO  
ASSIST IN DETERMINING FITNESS  
TABLE OF AUTHORITIES**

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**Co-Prosecutors:**  
 CHEA Leang  
 Andrew CAYLEY

**All Defence Teams****All Civil Parties**

**Cambodian Law – ECCC Legal Compendium**

1. Constitution, Art. 31.

**ECCC Law – ECCC Legal Compendium**

2. Establishment Law, Art. 35 new.
3. ECCC Internal Rules, Rule 81.

**ECCC Filings, Jurisprudence, and Transcripts – Already Disclosed on the Case File**

4. Decision on Accused IENG Sary's Fitness to Stand Trial, 26 November 2012, E238/9.
5. Transfer of IENG Sary to ECCC Detention Facility for 8 November 2012 Hearing, 7 November 2012, E239/2.
6. Mr. IENG Sary's daily medical report submitted by the Khmer Soviet Friendship Hospital, E11/86.1
7. Expert Report Relating to Mr. IENG Sary Prepared in Response to Trial Chamber Request (E238), 6 November 2012, E238/4
8. Directions to the Parties Following Hearing of 21 September 2012, 24 September 2012, E233, para. 2.
9. Re-appointment of Professor John A. Campbell (IENG Sary), 8 October 2012, E238.
10. Email exchange between the Defence and Dr. Bursztajn, E238/6.2.
11. Letter from Dr. Bursztajn to the Defence, 7 November 2012, E238/6.
12. Decision on Co-Prosecutors' Request for Reconsideration of the Terms of the Trial Chamber's Severance Order (E124/2) and Related Motions and Annexes, 18 October 2011, E124/7.
13. Decision on Request to Reconsider the Decision for an Oral Hearing on the Appeals PTC 24 and PTC 25, 20 October 2009, D164/4/9, para. 12.

14. *Case of Kaing Guek Eav alias Duch*, 001/18-07-2007-ECCC/OCIJ(PTC 02), Decision on IENG Sary's Motion for Reconsideration of Ruling on the Filing of a Motion in the Duch Case File, 3 December 2008, D99/3/41, para. 6.
15. Decision on Application for Reconsideration of Civil Party's Right to Address Pre-Trial Chamber in Person, 28 August 2008, C22/I/68, para. 25.
16. IENG Sary's Limited Waiver of Right to be Present During Court Proceedings, 18 September 2012, E229.
17. IENG Sary's Limited Waiver of Right to be Present During Court Proceedings, 1 October 2012, E237.
18. IENG Sary's Limited Waiver of Right to be Present During Court Proceedings, 30 October 2012, E237/1.
19. Medical Report on Mr. IENG Sary, 3 September 2012, E222/1.
20. Decision on NUON Chea's Fitness to Stand Trial and Defense Motion for Additional Medical Expertise, 15 November 2011, E115/3, paras. 16, 18.
21. Decision on IENG Thirith's Fitness to Stand Trial, 17 November 2011, E138, para. 27.
22. Professor Campbell's qualifications, E62.1.
23. Curriculum Vitae of Dr. Harold Bursztajn, E115.2.2.
24. Transcript, 21 September 2012, E1/125.1.
25. Transcript, 8 November 2012, E1/142.1.
26. Transcript, 12 November 2012, E1/143.1, p. 5-14, 19, 25-30, 36-37, 39-42.

**Inter-Office Communications – Available upon Request**

27. Email from Senior Detention Liaison Officer Claude Bouchard, 7 September 2012; Transcript, 21 September 2012, E1/125.1, p. 12.

28. Email from Defence to Trial Chamber Senior Legal Officer, “Request to Share Expert Report E238/4”, 6 November 2012.
29. Email from Trial Chamber Legal Officer Roger Phillips, “Re: Request to share expert report E238/4”, 7 November 2012.
30. Email from Trial Chamber Legal Officer Roger Phillips to the Defence, “Examination of IENG Sary”, 27 August 2012.

**International Conventions – ECCC Legal Compendium**

31. International Covenant on Civil and Political Rights, Art. 14(3)(d).

**International Tribunal Jurisprudence – Available on ICTY and ICTR websites**

32. *Prosecutor v. Jelisić*, IT-95-10-A, Appeals Judgement, 5 July 2001, para. 27.
33. *Prosecutor v. Karamera et al.*, ICTR-98-44-AR73.16, Decision on Appeal Concerning the Severance of Matthieu Ngirumpatse, 19 June 2009, para. 19
34. *Prosecutor v. Karamera et al.*, ICTR-98-44-T, Decision on Remand Regarding Continuation of Trial, 10 September 2009, para. 17.
35. *Prosecutor v. Kovačević*, IT-01-42/2-I, Public Version of Decision on the Accused’s Fitness to Enter a Plea and to Stand Trial, 12 April 2006.
36. *Prosecutor v. Strugar*, IT-01-42-T, Decision re the Defence Motion to Terminate Proceedings, 26 May 2004, paras. 32, 36.
37. *Prosecutor v. Strugar*, IT-01-42-A, Appeals Judgment, 17 July 2008, para. 55.
38. *Prosecutor v. Karamera et al.*, ICTR-98-44-T, Order Concerning Medical Examination of Matthieu Ngirumpatse, 23 June 2009, para. 7.
39. Fundamentally Dissenting Opinion of Judge Schomburg on the Right to Self-Representation, para. 3, in *Prosecutor v. Krajišnik*, IT-00-39-A, Decision on Momčilo Krajišnik’s Request to Self-Represent, on Counsel’s Motions in Relation to Appointment of Amicus Curiae, and on the Prosecution Motion of 16 February 2007, 11 May 2007.