

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

FILING DETAILS

Case No: 002/19-09-2007-ECCC/SC **Party Filing:** Co-Prosecutors

Filed to: Supreme Court Chamber **Original Language:** English

Date of document: 23 April 2013



CLASSIFICATION

**Classification of the document
suggested by the filing party:** PUBLIC

Classification by Supreme Court Chamber: សាធារណៈ/Public

Classification Status:

Review of Interim Classification:

Records Officer Name:

Signature:

**CO-PROSECUTORS' REQUEST FOR AN URGENT ORDER TO THE TRIAL CHAMBER TO ISSUE
A REASONED DECISION ON THE SEVERANCE OF CASE 002**

TABLE OF AUTHORITIES

Filed by:

Co-Prosecutors
CHEA Leang
Andrew CAYLEY

Distribute to:

Supreme Court Chamber
Judge KONG Srim, President
Judge A. KLONOWIECKA-MILART
Judge SOM Sereyvuth
Judge C. N. JAYASINGHE
Judge MONG Monichariya
Judge YA Narin
Judge Florence Ndepele MUMBA

Accused
NUON Chea
KHIEU Samphan

Lawyers for the Defence
SON Arun
Michiel PESTMAN
Victor KOPPE
KONG Sam Onn
Anta GUISSÉ
Arthur VERCKEN
Jacques VERGÈS

Copied to:

Civil Party Lead Co-Lawyers
PICH Ang
Elisabeth SIMONNEAU FORT

ECCC LAW

(Not included - ECCC Legal Compendium)

Core Legal Documents

1. Extraordinary Chambers of the Courts of Cambodia, Internal Rules (Rev. 8), as revised on 3 August 2011, Rules 104, 105, 106(2), 107, 108(7), 109, 110(1).

Jurisprudence

2. **E50** Decision on the urgent applications for immediate release of Nuon Chea, Khieu Samphan and Ieng Thirith, 16 February 2011, paras. 25-27, 29.
3. **E163/5** Notification of Decision on Co-Prosecutors' Request to Include Additional Crime Sites within the Scope of Trial; in Case 002/01 (E163) and deadline for submission of applicable law portion of Closing Briefs, 8 October 2012.
4. **E163/5/1/13** Decision on the Co-Prosecutors' Immediate Appeal of the Trial Chamber's Decision Concerning the Scope of Case 002/01, 8 February 2013, paras. 13, 17, 22, 23, 24, 29, 30, 36, 41, 44, 45, 46, 50.
5. **E163/5/1/13/1** Trial Chamber Memorandum: Directions to the parties in consequence of the Supreme Court Chamber's Decision on Co-Prosecutors' Immediate Appeal of the Trial Chamber's Decision concerning the Scope of Case 002/01 (E163/5/1/13), 12 February 2013, paras. 2, 3(iii), 5.
6. **E176/2/1/4** Decision on Nuon Chea's Appeal Against the Trial Chamber's Decision on Rule 35 Applications for Summary Action, 14 September 2012, para. 25.

INTERNATIONAL LAW

Instruments

United Nations

7. International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, 23 March 1976, art. 14. *(Not included - available on United Nations Treaty Collection website)*

International Court of Justice (ICJ)

8. Statute of the International Court of Justice, 24 October 1945, art. 60. *(Not included - available on ICJ website)*

002/19-09-2007-ECCC/SC

9. Rules of the International Court of Justice, 1 July 1978, art. 98. *(Not included - available on ICJ website)*

International Criminal Court (ICC)

10. Rome Statute of the International Criminal Court, 17 July 1998, art. 74. *(Not included - available on ICC website)*

International Criminal Tribunal for Rwanda (ICTR)

11. Statute of the International Tribunal for Rwanda, S.C. Res. 955, 8 November 1994, art. 22. *(Not included - available on ICTR website)*

International Criminal Tribunal for the Former Yugoslavia (ICTY)

12. Statute of the International Criminal Tribunal for the Former Yugoslavia, 25 May 1993, S.C. Res 827, art. 23. *(Not included - available on ICTY website)*

Jurisprudence

United Nations Administrative Tribunal (former)

13. *Crawford et al.* (1955) UNAT 61, *Judgment*, p. 355.
14. *Khalil* (2000) UNAT 973, *Judgment*, p. 3.

International Court of Justice (ICJ)

15. *Request for interpretation of the Judgment of 15 June 1962 in the case concerning the Temple of Preah Vihear (Cambodia v. Thailand)* (Cambodia v. Thailand), *Application of the Kingdom of Cambodia*, 28 April 2011, para. 1. *(Not included - available on ICJ website)*

International Criminal Court (ICC)

16. *Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06 (OA 5), Judgment on the Appeal of Mr. Thomas Lubanga Dyilo Against the Decision of Pre-Trial Chamber I Entitled "First Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81" (ICC Appeals Chamber), 14 December 2006 at para. 20. *(Not included - available on ICC website)*

International Criminal Tribunal for Rwanda (ICTR)

17. *Prosecutor v. Édouard Karemera*, Case No. ICTR-98-44-AR73.1, Decision on Mathieu Ngirumpatse's Appeal from the Trial Chamber Decision of 17 September 2008 (ICTR Appeals Chamber), 30 January 2009 at para. 19. *(Not included - available on ICTR website)*

International Criminal Tribunal for the Former Yugoslavia (ICTY)

18. *Prosecutor v. Dragoljub Kunarac, et al.*, Case Nos. IT-96-23 & IT-96-23/1-A, Judgment (ICTY Appeals Chamber), 12 June 2002 at paras. 41, 324. *(Not included - available on ICTY website)*

19. *Prosecutor v. Duško Tadić*, Case No. IT-94-1, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995 at paras, 17-18. *(Not included - available on ICTY website)*
20. *Prosecutor v. Momir Nikolić*, Case No. IT-02-60/1-A, Judgment on Sentencing Appeal (ICTY Appeals Chamber), 8 March 2006 at para. 96. *(Not included - available on ICTY website)*
21. *Prosecutor v Ratko Mladić*, Decision on consolidated prosecution motion to sever the indictment, to conduct separate trials, and to amend the indictment, Case No. IT-09-92-PT (ICTY Trial Chamber), 13 October 2011. *(Not included - available on ICTY website)*

Press Release

International Court of Justice (ICJ)

22. ICJ Press Release No. 2012/36, “The Court to hold public hearings from Monday 15 to Friday 19 April 2013”, 29 November 2012. *(Not included - available on ICJ website)*

REGIONAL AND FOREIGN DOMESTIC LAW

Instruments

23. American Bar Association Model Code of Judicial Conduct (2011), Rule 2.12 (United States of America). ***(Authority 1)***
24. American Bar Association Model Rules for Professional Conduct, Rule 1.9(a). ***(Authority 2)***
25. American Convention on Human Rights, 22 November 1969, art. 67. *(Not included - available on Inter-American Commission on Human Rights website)*
26. *Appellate Jurisdiction Act* [2009] Ch. 9, s. 3(2) (Kenya). ***(Authority 3)***
27. *Court of Appeal Act, Statutes of Saskatchewan* [2000], Ch. C-42.1 (Canada). ***(Authority 4)***
28. Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, art. 28(4). *(Not included - available on African Court on Human and Peoples’ Rights website)*
29. Rules of Procedure of the Inter-American Commission on Human Rights (Modified on 2 September 2011), Article 59. *(Not included - available on Inter-American Commission on Human Rights website)*

Jurisprudence

30. *Ford Aerospace and Communications Corporation Case* (1986), 12 Iran-US CTR 305.
31. *Girls Yean and Bosico v. Dominican Republic*, IACHR, *Judgment*, 23 November 2006.
32. *Hadjianastassiou v. Greece*, Application No. 12945/87, *Judgment*, 16 December 1992 (ECtHR), para. 33.
33. *Hong Kong SAR v. Tin's Label Factory Ltd*, FACC 5/2008 (Court of Final Appeal), 5 December 2008 at paras. 12, 53-56. (**Authority 5**)
34. *R v. Smith* [2003] 3 NZLR 617 (Court of Appeal), 19 December 2002. (**Authority 6**)
35. *Ringeisen v. Austria* (Interpretation), Application No. 2614/65, *Judgment*, 23 June 1973 (ECtHR), para. 13.
36. *Taylor & Anor v. Lawrence & Anor* [2003] QB 528, Supreme Court (Court of Appeal (Civil Division)), 4 February 2002, para. 55. (**Authority 7**)