

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

**FILING DETAILS**

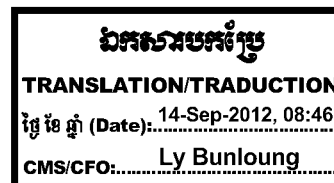
**Case No:** 002/19-09-2007-ECCC/TC

**Party filing:** Mr KHIEU Samphân

**Filed to:** The Trial Chamber

**Original Language:** French

**Date of Document:** 10 September 2012



**CLASSIFICATION**

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

**Classification by the Trial Chamber:** សាធារណៈ/Public

**Classification Status:**

**Review of Interim Classification:**

**Records Officer's Name:**

**Signature:**

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**SUBMISSION IN SUPPORT OF MR IENG SARY'S REQUEST THAT THE TRIAL CHAMBER SEEK  
CLARIFICATION FROM THE OCIJ AS TO THE EXISTENCE OF ANY RECORD RELATING TO  
THE QUESTIONING OF WITNESS OEUN TAN ON 8 OCTOBER 2008**

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To:

**The Trial Chamber**

Judge NIL Nonn

Judge Silvia CARTWRIGHT

Judge YOU Ottara

Judge Jean-Marc LAVERGNE

Judge YA Sokhan

**Co-Prosecutors**

CHEA Leang

Andrew CAYLEY

**All Civil Party Lawyers**

**All Defence Teams**

**MAY IT PLEASE THE TRIAL CHAMBER**

1. On 29 August 2012, IENG Sary's Defence filed a request that the Trial Chamber seek clarification from the Office of Co-Investigating Judges as to the existence of any record relating to the questioning of Witness OEUN Tan on 8 October 2008.<sup>1</sup>
2. Mr KHIEU Samphân hereby expresses support for IENG Sary's Request, as well as for all arguments put forward by his Co-Lawyers.<sup>2</sup> He also avails himself of this opportunity to reiterate his scepticism with regard to the integrity of the procedures followed by the OCIJ investigators.
3. Indeed, Mr KHIEU Samphân would like to remind the Trial Chamber of the doubt he expressed earlier about the circumstances of Witness PHY Phuon's interview.<sup>3</sup> Furthermore, he wishes to draw particular attention to the discrepancies between the transcriptions and the official dates of Mr NORNG Sophang's interview, which Mr Vercken has already highlighted in court.<sup>4</sup>
4. Considering the Trial Chamber's role in ensuring fairness and transparency of the proceedings, Mr KHIEU Samphân submits that seeking clarification from the Office of the Co-Investigating Judges as to the procedures followed by its investigators is necessary in light of all the legal provisions guaranteeing the accused of the right to a fair trial.

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<sup>1</sup> IENG SARY's request that the Trial Chamber seek clarification from the OCIJ as to the existence of any record relating to the questioning of witness OEUN Tan on 8 October 2008, 29 August 2012, E224, filed on 30 August 2012.

<sup>2</sup> Pending translation of the request into French.

<sup>3</sup> Submission in support of Mr IENG Sary's request E221, and request for the Trial Chamber to order the Co-Prosecutors to revise the list of written statements they are seeking to put before the Chamber in lieu or oral testimony, dated 29 August 2012, **E223**

<sup>4</sup> Draft transcript of hearing of 5 September 2012, pp. 64-65 and 68-69. See also the record of the first interview of Witness NORNG Sophang, 18 and 19 February 2009, **E3/64**, p. 5 and the partial transcript of the audio recording, **D200/3.11**, p.1

5. It is indispensable to seek such clarification. In fact, if the investigations of OCIJ investigators are supposed to have the same weight as a rogatory letter in the criminal procedure in civil law systems, the working methods and ethical standards of those investigators ought to be subject to the scrutiny by the Chamber and the parties. In this instance, the issues arising from the interviews of Witnesses OEUN Tan, PHY Phuon and Norng Sophang clearly raise the issue of the integrity of the proceedings with regard to the manner in which those interviews were conducted.
6. **FOR THESE REASONS**, Mr KHIEU Samphân requests the Trial Chamber to:
- **GRANT** Mr IENG Sary's Request concerning the interview of Witness OEUN Tan;
  - Also **SEEK** clarification from the OCIJ regarding the interview of Witness NORNG Sophang, and in the future follow that same procedure for the questioning of any other witnesses whose transcribed interviews may contain similar inconsistencies.

	KONG Sam Onn	Phnom Penh	[Signed]
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Date	Name	Place	Signature