



**ព្រះរាជាណាចក្រកម្ពុជា**  
**ជាតិ សាសនា ព្រះមហាក្សត្រ**

**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

Extraordinary Chambers in the Courts of Cambodia  
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia  
Nation Religion King  
Royaume du Cambodge  
Nation Religion Roi

**អង្គជំនុំជម្រះតុលាការកំពូល**

Supreme Court Chamber  
Chambre de la Cour suprême

<b>ឯកសារដើម</b>
<b>ORIGINAL/ORIGINAL</b>
ថ្ងៃ ខែ ឆ្នាំ (Date): 13-Jan-2012, 09:28
CMS/CFO: Sann Rada

សំណុំរឿងលេខ: ០០២/១៩-០៩-២០០៧-អ.វ.ត.ក-អ.ជ.ស.ដ/អ.ជ.ត.ក(១៣)

Case File/Dossier N°. 002/19-09-2007-ECCC-TC/SC(13)

**Before:** Judge KONG Srim, President  
Judge Motoo NOGUCHI  
Judge SOM Sereyvuth  
Judge Agnieszka KLONOWIECKA-MILART  
Judge MONG Monichariya  
Judge Chandra Nihal JAYASINGHE  
Judge YA Narin

**Date:** 13 January 2012  
**Original Language(s):** Khmer/English  
**Classification:** PUBLIC

**DECISION ON IENG SARY’S APPEAL AGAINST TRIAL CHAMBER’S ORDER  
REQUIRING HIS PRESENCE IN COURT**

**Co-Lawyers for the Accused**  
ANG Udom  
Michael G. KARNAVAS

**Accused**  
IENG Sary

**Civil Parties Lead Co-Lawyers**  
PICH Ang  
Elisabeth SIMONNEAU FORT

**Co-Prosecutors**  
CHEA Leang  
Andrew CAYLEY

**THE SUPREME COURT CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”):

**BEING SEISED** of an appeal filed by the Co-Lawyers for the Accused (“Co-Lawyers”), IENG Sary (“Appeal”);<sup>1</sup>

**CONSIDERING** the allegations in the Appeal that the decision of the Trial Chamber<sup>2</sup> to require IENG Sary’s presence in the courtroom during opening statements notwithstanding physical pain and discomfort impaired his right to assist in his own defence, disregarded his right to waive his presence at trial and constituted a penalty not prescribed by law, amounting to a knowing and wilful interference with the administration of justice pursuant to Internal Rule 35 (Rev. 8);

**CONSIDERING** that neither an error of fact or law nor an abuse of discretion on the part of the Trial Chamber can, by itself, constitute a knowing and wilful interference with the administration of justice within the meaning of Rule 35;

**CONSIDERING** that the substance of the appeal does not fall within the Chamber’s limited jurisdiction for immediate appeals under Rule 104(4);<sup>3</sup>

**FOR THE FOREGOING REASONS** the Supreme Court Chamber:

**DECIDES** to reject the Appeal as inadmissible.

**Phnom Penh, 13 January 2012**  
**President of the Supreme Court Chamber**



A handwritten signature in blue ink, appearing to read 'Kong Srim', is written over a horizontal blue line.

**Kong Srim**

<sup>1</sup> IENG Sary’s Appeal Against The Trial Chamber’s Decision Denying His Right To Waive His Presence in the Courtroom During Trial and Denying His Constitutional Right To Assist In His Own Defence, Case No. 002/19-09-2007-ECCC-TC/SC(13), 5 January 2012, E130/4/1.

<sup>2</sup> T. (EN), 21 November 2011, E1/13.1, p. 36; T. (EN), 22 November 2011, E1/14.1, p. 8.

<sup>3</sup> Decision on the Appeals Filed by Lawyers for Civil Parties (Groups 2 and 3) Against the Trial Chamber’s Oral Decisions of 27 August 2009, 28 December 2009, E169/1/2, paras 8-12.