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SCSL-03-01-PT
(4804 SC SL 4808)

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SPECIAL COURT FOR SIERRA LEONE

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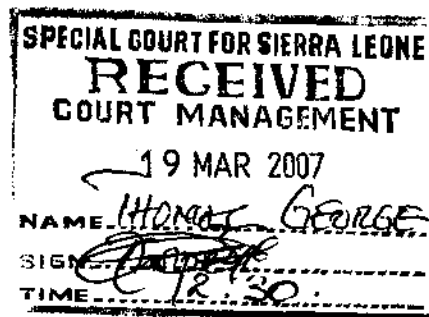
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THE PRESIDENT OF THE SPECIAL COURT

Before: Hon. Justice George Gelaga King, President

Registrar: Mr. Herman von Hebel, Acting Registrar

Date: 19 March 2007



PROSECUTOR

against

Charles Ghankay TAYLOR
(Case No. SCSL03-01-PT)

**DECISION OF THE PRESIDENT ON PUBLIC DEFENCE MOTION REQUESTING
REVIEW OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE
INTERNATIONAL CRIMINAL COURT AND THE SPECIAL COURT OF SIERRA LEONE
DATED 13 APRIL 2006 & MODIFICATION OF MR. CHARLES TAYLOR'S CONDITIONS
OF DETENTION**

Office of the Prosecutor

Mr. Stephen Rapp
Ms. Wendy Van Tongeren
Ms. Shyamala Alagendra
Mr. Alain Werner

Defence Counsel for Charles Ghankay Taylor

Mr. Karim A. A. Khan
Mr. Roger Sahota

THE PRESIDENT of the Special Court for Sierra Leone (“Special Court”), Justice George Gelaga King,

SEISED of the Public Defence Motion Requesting Review Of The Memorandum Of Understanding Between The International Criminal Court And The Special Court Of Sierra Leone Dated 13 April 2006 & Modification of Mr. Charles Taylor’s Conditions Of Detention, filed on 14 December 2006 (“Applicant’s Motion”), wherein the Applicant requests an order that the Registrar:

- “(i) Modify, and/or apply the MoU, such that the [Special Court] retains exclusive jurisdiction over Mr. Taylor’s conditions of detention;
- (ii) Ensure that Mr. Taylor is granted equal and humane treatment consistent with [Special Court] detention rules and Practices; [and]
- (iii) Grant Mr. Taylor’s [specific] requests [made in relation to conditions of his detention];”

NOTING that on 20 February 2007, the Registrar filed the Registrar’s Submission purportedly “Pursuant to Rule 33(B) In Relation To Issues Raised In The Defence Motion Requesting Review Of The Memorandum Of Understanding Between The International Criminal Court And The Special Court Of Sierra Leone Dated 13 April 2006 & Modification of Mr. Charles Taylor’s Conditions Of Detention;”

CONSIDERING the Defence Reply To Registrar’s aforementioned Submission “In Relation To Issues Raised In The Defence Motion Requesting Review Of The Memorandum Of Understanding Between The International Criminal Court And The Special Court Of Sierra Leone Dated 13 April 2006 & Modification of Mr. Charles Taylor’s Conditions Of Detention, filed by the Applicant on 26 February 2007;”

NOTING that on 27 February 2007, the Registrar filed the Addendum To The Defence Reply To Registrar’s Submission “In Relation To Issues Raised In The Defence Motion Requesting Review Of The Memorandum Of Understanding Between The International Criminal Court And The

Special Court Of Sierra Leone Dated 13 April 2006 & Modification of Mr. Charles Taylor's Conditions Of Detention;”

CONSIDERING that the Registrar's submissions in this instance are procedurally irregular,¹ but I deemed them to have been filed pursuant to Rule 19(A) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, (“Rules”);²

NOTING that on 14 March 2007, the Prosecution filed the Prosecution's Submission Regarding “Defence Application Requesting Review Of The Memorandum Of Understanding Between The International Criminal Court And The Special Court Of Sierra Leone Dated 13 April 2006 & Modification Of Mr. Charles Taylor's Conditions Of Detention;”

FINDING that the Prosecution's Submission is in fact a Response to the Applicant's Motion and that it was not filed within the time limits set out in Rule 7 of the Rules.

NOTING that the Prosecution has neither applied for an extension of time to file its Response (“Submission”) in accordance with Rule 7 of the Rules, nor submitted a Late Filing Form indicating the reason for the delay in filing, as required under Article 12 of the Practice Direction on Filing Documents before the Special Court for Sierra Leone;³

CONSIDERING the Defence Response To The Prosecution's Submission Regarding “Defence Application Requesting Review Of The Memorandum Of Understanding Between The International Criminal Court And The Special Court Of Sierra Leone Dated 13 April 2006 & Modification Of Mr. Charles Taylor's Conditions Of Detention;”

FINDING that the Prosecution's Response (“Submission”) was filed irregularly on 14 March 2007, and is therefore inadmissible.

RECALLING that on 13 April 2006, the Registrar of the Special Court and the International Criminal Court (“ICC”), entered into a Memorandum of Understanding regarding Administrative

¹ See *Prosecutor v. Taylor*, SCSL-03-01-PT, Decision of the President on Urgent and Public Defence Motion Requesting Cessation of Video Surveillance of Legal Consultations, (21 February 2007) at para. 23.

² Rules of Procedure and Evidence, Special Court for Sierra Leone, as amended 24 November 2006.

³ Practice Direction on Filing Documents before the Special Court for Sierra Leone, as amended 10 June 2005, art. 12 (entered into force 27 February 2003).

Arrangements between the International Criminal Court and the Special Court for Sierra Leone (“MoU”);⁴

CONSIDERING that the MoU is an agreement between the Special Court and the ICC and that there is no *jus quaesitum tertio vis-à-vis* the Applicant;

NOTING that on 19 June 2006, I ordered pursuant to Rules 54 and 64 of the Rules “that Charles Ghankay Taylor be transferred to and detained in appropriate facilities in The Hague, the Netherlands, in accordance with conditions set out in agreements between the Registrar, the International Criminal Court and the Government of the Netherlands;”

NOTING that on 19 June 2006, the Registrar, pursuant to Rule 64 of the Rules, ordered that “the rules of detention and standards of the ICC Detention shall be applicable” for the detention of Charles Ghankay Taylor *mutatis mutandis* and that “the Complaints procedure set out in Rule 59 of the Rules of Detention of the Special Court (“Rules of Detention”) shall be applicable,” and that this Order was endorsed by me;⁵

NOTING that Article 6.4 of the MoU is clear in stating that:

“The Special Court shall retain full legal control and authority over the Detainee and shall assume full legal responsibility for the custody of the Detainee. In particular, the Special Court shall remain fully responsible for all aspects arising out of the provision of the day to day detention services and facilities under this Article including the well-being of the Detainee” (Emphasis mine);

NOTING that Rule 59 of the Rules of Detention⁶ sets out a Complaints Procedure in the following terms:

⁴ Memorandum of Understanding regarding Administrative Arrangements between the International Criminal Court and the Special Court for Sierra Leone, International Criminal Court and Special Court for Sierra Leone, 13 April 2006 (“MoU”).

⁵ *Prosecutor v. Taylor*, SCSL-03-01-PT, Endorsement Pursuant to Rule 64, (19 June 2006) at p. 2.

⁶ Rules Governing the Detention of Persons Awaiting Trial of Appeal before the Special Court for Sierra Leone or Otherwise Detained on the Authority of the Special Court for Sierra Leone, Special Court for Sierra Leone, as amended 14 May 2005.

“(A) Each Detainee or his Counsel may make a complaint to the Chief of Detention or his representative at any time. A log of all complaints made shall be kept by the Chief of Detention.

(B) If not satisfied with the response from the Chief of Detention, the Detainee shall have the right to make a written complaint, without censorship, to the Registrar.

(C) Each complaint shall be dealt with promptly by the Registrar and replied to without undue delay.”

CONSIDERING that the complaints procedure expressly provided for under Rule 59 of the Rules of Detention are to be followed by the Applicant;

CONSIDERING that the Registrar is empowered to make a decision with respect to any complaint lodged by the Applicant and then communicate his decision to the officials concerned in order to ensure that the Applicant’s complaint is dealt with promptly and without delay;

FINDING that the Applicant has not demonstrated that he followed the Complaints Procedure in accordance with the provisions of Rule 59 of the Rules of Detention, and that therefore the Applicant’s Motion with respect to Mr Charles Ghankay Taylor’s conditions of detention is inadmissible;

FOR THE ABOVE REASONS

I HEREBY DISMISS the Applicant’s Motion in its entirety.

Done in Freetown, this 19th Day of March 2007.

