

226)

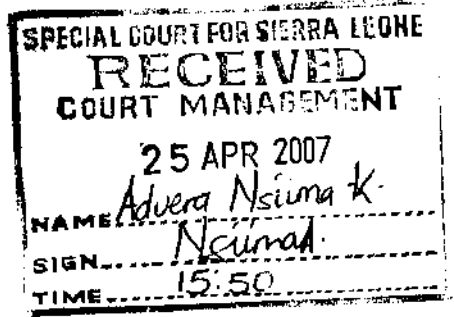
SCS-03-01-PT  
(5469-5472)



5469

SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II



Before: Justice Julia Sebutinde, Presiding Judge  
Justice Richard Lussick  
Justice Teresa Doherty

Registrar: Mr. Herman von Hebel, Acting Registrar

Case No.: SCSL-03-1-PT

Date: 25 April 2007

PROSECUTOR

Against

CHARLES GHANKAY TAYLOR

---

DECISION ON DEFENCE MOTION REQUESTING RECONSIDERATION OF "JOINT DECISION ON DEFENCE MOTIONS ON ADEQUATE FACILITIES AND ADEQUATE TIME FOR THE PREPARATION OF MR. TAYLOR'S DEFENCE," DATED 23 JANUARY 2007

---

Office of the Prosecutor:

Stephen Rapp  
Brenda Hollis  
Wendy van Tongeren  
Mohammad Bangura  
Ann Sutherland  
Shyamala Alagendra  
Alain Werner  
Anne Althaus  
Leigh Lawrie

Defence Counsel for Charles G. Taylor:

Karim A.A. Khan  
Roger Sahota

5470  
TRIAL CHAMBER II ("Trial Chamber") of the Special Court For Sierra Leone ("Special Court"), composed of Justice Julia Sebutinde, Presiding Judge, Justice Richard Lussick and Justice Teresa Doherty;

SEISED of the "Defence Motion Requesting Reconsideration of 'Joint Decision on Defence Motions on Adequate Facilities and Adequate Time For The Preparation Of Mr. Taylor's Defence,' Dated 23 January 2007", filed on 17 April 2007 ("Motion"<sup>1</sup>) wherein the Defence requests the Trial Chamber to re-schedule the commencement date of the trial from 4 June 2007 to a date not earlier than 3 September 2007, on the ground that there has been a substantial change of circumstances which has altered the basis of the Trial Chambers "Joint Decision on Defence Motions on Adequate Facilities and Adequate Time For The Preparation Of Mr. Taylor's Defence," dated 23 January 2007;

RECALLING the Trial Chamber's Order for Expedited Filing, dated 19 April 2007;<sup>2</sup>

NOTING the Prosecution's Response To "Defence Motion Requesting Reconsideration of Joint Decision on Defence Motions on Adequate Facilities and Adequate Time For The Preparation Of Mr. Taylor's Defence," Dated 23 January 2007", filed on 20 April 2007 ("Response")<sup>3</sup> wherein the Prosecution concedes that "the Accused has shown good cause for an additional delay in the commencement of the trial";

NOTING the Defence Reply To Prosecution's Response To "Defence Motion Requesting Reconsideration of 'Joint Decision on Defence Motions on Adequate Facilities and Adequate Time For The Preparation Of Mr. Taylor's Defence,' Dated 23 January 2007", filed on 23 April 2007 ("Reply");<sup>4</sup>

RECALLING the Trial Chamber's "Joint Decision on Defence Motions on Adequate Facilities and Adequate Time For The Preparation Of Mr. Taylor's Defence," dated 23 January 2007, ("Decision of 23 January 2007") setting Monday 4 June as the date for the start of the trial;<sup>5</sup>

RECALLING also the "Decision of The President On Urgent And Public Defence Motion Requesting Cessation Of Video Surveillance Of Legal Consultations", dated 21 February 2007 ("President's Decision")<sup>6</sup> wherein the President directed inter alia, that-

- (i) the Registrar communicate forthwith to the relevant ICC authorities in The Hague his Decision that "the use of video surveillance of the legal consultations of the Detainee Charles Taylor with his Counsel be discontinued";
- (ii) the Registrar ensure that his said Decision is complied forthwith;

RECALLING also the "Notification of Suspension of Legally Privileged Attorney-Client Consultations With Mr. Charles Taylor" filed by the Defence on 5 March 2007 and the "Notification

---

<sup>1</sup> Document No. SCSL-03-01-PT-220.

<sup>2</sup> Document No. SCSL-03-01-PT-221.

<sup>3</sup> Document No. SCSL-03-01-PT-223.

<sup>4</sup> Document No. SCSL-03-01-PT-225.

<sup>5</sup> *Prosecutor vs. Charles Ghankay Taylor*, Case No. SCSL-03-01-PT, Joint Decision on Defence Motions on Adequate Facilities and Adequate Time For The Preparation Of Mr. Taylor's Defence, 23 January 2007, para. 22.

<sup>6</sup> *Prosecutor vs. Charles Ghankay Taylor*, Case No. 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, para. 31.



of Resumption of Legally Privileged Attorney-Client Consultations With Mr. Charles Taylor" filed by the Defence on 23 March 2007; 5471

**RECALLING** that this Court has previously held that-

Trial Chambers have inherent jurisdiction to rescind or vary orders and reconsider interlocutory judgements if there has been a change of circumstances which has removed or altered the basis of the original order.<sup>7</sup>

**COGNISANT** of the provisions of Article 17 of the Statute of the Special Court for Sierra Leone ("Statute") and of Rules 26bis, 54 and 73 of the Rules of Procedure and Evidence ("Rules");

**NOTING** the Defence submissions that the substantial change of circumstances justifying the Motion are that-

- (i) From 10 November 2006 to 22 March 2006 (sic) legal consultations between Mr. Taylor and his Defence team were severely hampered by the installation of a video surveillance camera in the legal consultation room. This intrusion has been the cause of significant delays in the case preparation and, ultimately, caused the Defence to suspend all legal visits with Mr. Taylor until the matter was resolved...
- (ii) As a subsidiary, supplementary and wholly separate ground, two members of the Defence legal team, including Lead Counsel, are involved in appeal proceedings before the International Criminal Tribunal for the Former Yugoslavia ("ICTY") (The case of *Limaj et al*) which, the Defence have been notified, has provisionally been scheduled by the President of the ICTY to be heard on 31 May and 1 June 2007, three days before Mr. Taylor's trial is due to start.<sup>8</sup>

**NOTING** further the Defence submissions that it maintains the position and grounds set out in the Defence Motion on Adequate Time for the Preparation of Mr. Taylor's Defence ("Second Defence Motion") filed on 15 December 2006 and that those factors, when considered cumulatively with the new circumstances set out in the present Motion, justify a reconsideration of the Trial Chamber's Decision of 23 January 2007;<sup>9</sup>

**CONSIDERING** that video surveillance of the legal consultations between Mr. Taylor and members of his Defence team started on 10 November 2006 when the International Criminal Court Detention Unit ("ICCDU") installed video surveillance cameras in the conference rooms available for Mr. Taylor's legal consultations, but that notwithstanding the surveillance, the Defence team did not actually suspend consultations until 5 March 2007, and that therefore a delay of the start of the trial until 3 September 2007 (a total of three months) is not altogether justified;

**NOTING** that in light of the continued video surveillance of the legal consultations between Mr. Taylor and members of the Defence team in violation of the President's Decision, the Defence team

---

<sup>7</sup> *Prosecutor v. Brima et al*, Case No. SCSL-04-16-AR73, Decision on Brima-Kamara Defence Appeal Motion Against Trial Chambers II Majority Decision on Extremely Urgent Confidential Joint Motion for the Re-Appointment of Kevin Metzger and Wilbert Harris as Lead Counsel for Alex Tamba Brima and Briuna Bazzy Kamara, and Separate and Concurring Opinion of Justice Robertson, 8 December 2005, paras. 49-50, 102 (vi); quoted by this Trial Chamber in *Prosecutor v. Charles Ghankay Taylor*, Case No. SCSL-03-01-PT, Decision on Urgent Defence Motion to Vacate Date for Filing of Defence Pre-Trial Brief, 5 March 2007, page 3.

<sup>8</sup> Motion, para. 2.

<sup>9</sup> Motion, paras. 3-9.



of Mr. Taylor suspended all privileged attorney-client consultations from 5 - 22 March 2007 (a total of 18 Calendar days);

5472

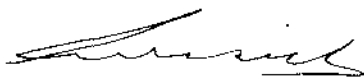
**FINDING** that the Motion is justified to the extent that Mr. Taylor, through no fault of his own, has lost preparation time owing to the suspension of client-attorney consultations from 5 - 22 March 2007, and that it would be in the interests of a fair trial for him to be compensated for preparation time lost during that period;

**HOLDING** that the involvement of Defence Counsel in the *Limaj* Appeal provisionally scheduled for hearing on 31 May and 1 June 2007 before the ICTY is not justification for adjourning the start of the Taylor trial, which date was fixed as early as 23 January 2007;<sup>10</sup>

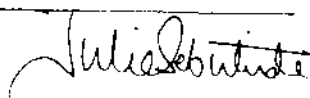
**HEREBY GRANTS THE MOTION IN PART** and directs as follows

1. The Taylor trial will start on 4 June 2007 as previously scheduled. However, on that date the Prosecution may open its case by making an opening statement only.
2. At the end of the Prosecution's opening statement, an adjournment of 18 calendar days will be allowed to make up for preparation time lost by the Defence.
3. The Prosecution case will resume on Monday, 25 June, 2007.

Done at Freetown, Sierra Leone, this 25<sup>th</sup> day of April 2007.



Justice Richard Lussick



Justice Julia Sebutinde  
Presiding Judge



Justice Teresa Doherty

[Seal of the Special Court for Sierra Leone]



<sup>10</sup> Prosecutor vs. Charles Ghankay Taylor, Case No. SCSL-03-01-PT, Joint Decision on Defence Motions on Adequate Facilities and Adequate Time For The Preparation Of Mr. Taylor's Defence," 23 January 2007, para. 22.