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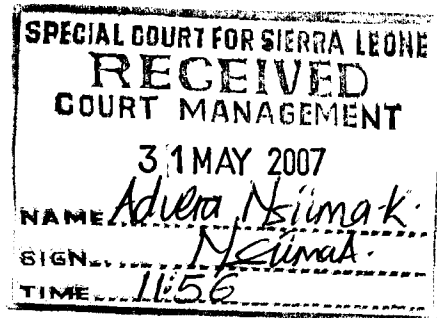
SCSL-03-01-PT
(9594-9599)

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SPECIAL COURT FOR SIERRA LEONE

TRIAL CHAMBER II



Before: Justice Julia Sebutinde, Presiding Judge
Justice Richard Lussick
Justice Teresa Doherty
Justice El Hadji Malick Sow, Alternate Judge

Registrar: Herman von Hebel, Acting Registrar

Case No.: SCSL-03-1-PT

Date: 31 May 2007

PROSECUTOR

Against

CHARLES GHANKAY TAYLOR

DECISION ON DEFENCE MOTION PURSUANT TO RULE 54 REQUESTING
ORDER TO COURT MANAGEMENT TO ACCEPT FILINGS AND SERVE HARD COPIES OF ALL
FILINGS ON THE PARTIES IN THE HAGUE IMMEDIATELY

Office of the Prosecutor:
Stephen Rapp
Brenda Hollis

Defence Counsel for Charles G. Taylor:
Karim A.A. Khan
Roger Sahota

TRIAL CHAMBER II (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”);

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SEISED of the “Urgent and Public Defence Motion Pursuant to Rule 54 Requesting Order to Court Management to Accept Filings and Serve Hard Copies of All Filings on The Parties in The Hague Immediately”, filed on 23 May 2007 (“Motion”);

RECALLING the Trial Chamber’s Order for Expedited Filing of 28 May 2007¹ directing that any response to the Motion and the Registrar’s written submissions in response to the issues raised in the Motion be filed no later than 4.00 p.m. on Monday 28 May 2007;

NOTING that the Prosecution did not file a response to the Motion;²

NOTING the “Registrar’s Submission Pursuant to Rule 33(B) Relating to Defence Motion Pursuant to Rule 54 Requesting Order to Court Management to Accept Filings and Serve Hard Copies Or All Filings On The Parties In The Hague Immediately” filed late³ on 28 May 2007 (“Registrar’s Submission”);

NOTING also the “Defence Reply to Registrar’s Submission Pursuant to Rule 33 (B) Relating to Defence Motion Pursuant to Rule 54 Requesting Order to Court Management to Accept Filings and Serve Hard Copies Or All Filings On The Parties In The Hague Immediately”, filed late⁴ on 29 May 2007 (“Reply”);

CONSIDERING that notwithstanding the late filing, the Trial Chamber accepts the Reply and Registrar’s Submission in the interest of justice;

MINDFUL of the provisions of Articles 16.1 and 17 of the Statute of the Special Court (“Statute”); Rules 7, 26bis, 33(B), 54, 73, 92bis, 94, and 94bis of the Rules of Procedure and Evidence (“Rules”) and of the Practice Direction on Filing Documents Before the Special Court for Sierra Leone;

DECIDES this Motion based solely on the written submissions of the parties;

I. Submissions

Motion:

1. The Defence submits that lately there has been a significant time lag between the date stamp showing when Court Management received documents, the date documents are electronically served to the parties, and the date documents are actually received by the parties in their email boxes. There is often an additional time lapse as attachments trickle in. The Defence submits that in its opinion,

¹ Document No. SCSL-03-01-PT-258.

² In their letter filed on 29 May 2007, (Document No. SCSL-03-01-PT-266) the Prosecution indicated that they do not intend to file a response and are not opposed to the Motion.

³ According to the ‘Notice of Deficient Filing’ Form accompanying the filing, the Registrar’s Submission was filed at 16.14 hours on 28 May 2007. The Form does not however, state the reason for the late filing, contrary to the provisions of Article 12 of the Practice Direction on Filing Documents Before the Special Court for Sierra Leone

⁴ Document SCSL-03-01-PT-265 was filed at 16.07 on 28 May 2007 in breach of the Trial Chamber’s Order for Expedited Filing of 28 May 2007 and did not state the reasons for the lateness.



service or transmission is only complete when the Defence has received the last attachment, including all annexes, in a legible format.⁵ 9596

2. Notwithstanding that Mr. Taylor was transferred to The Hague on 21 June 2006, there are still no effective procedures in place to ensure the proper filing by and service of documents on Defence Counsel in The Hague. The Defence regards this state of affairs as “unacceptable and prejudicial”.⁶

3. In two recent filings, the Prosecution has included multiple Compact Disks (CDs) as “annexes” yet no provision has been made for the Defence to obtain the CDs in The Hague where the Accused is detained and where the trial is set to take place. Given that Defence Counsel is located in The Hague, the instruction that the defence should pick up the CDs from the CMS office in Freetown is impractical. The Defence maintains that until the CDs are received by them in The Hague, the entire motion has not been received and the Defence is consequently, unable to make an informed response to such a motion.⁷

4. As a solution to the above problems, the Defence requests the Trial Chamber to order Court Management to:

- (i) Accept electronic filing in The Hague as soon as practicable; and
- (ii) Serve all of the recent Prosecution motions (those dated 14 May 2007 onwards) on the Defence in The Hague in hard copy, after which time “the clock will start running” for the Defence to respond.

Registrar’s Submission:

5. The Acting-Registrar acknowledges the delays mentioned by the Defence and explains that “Court Management Section is currently staffed with only two Court clerks; considering that one Court clerk attends court sessions, only one Court clerk deals with the filing of documents. In addition, the Listing Officer is currently on long term sick leave. As a result, considering the amount and volume of recent Court documents, their filing and service by only one Court clerk involves delay. Furthermore, the fact that recent motions filed by the parties were exceptionally voluminous has also leaded (*sic*) to delays in their service.”⁸

6. The Registrar further submits that in view of the above difficulties, “CMS has copied on a CD all Court documents related to the case of Charles Taylor and filed from the start of the case until Friday 25 May 2007. This CD has been sent by DHL to The Hague and would reach the SCSL Sub-Office in The Hague on Wednesday 30 May 2007. CMS Section in The Hague would print the documents and serve hard copies to the Parties in The Hague.”⁹

7. In response to the Defence submission referred to in paragraph 3 above, the registrar submits that “Those CDs have been included in the DHL package mentioned above. Upon arrival of the

⁵ Motion, para. 4.

⁶ Motion, para. 5.

⁷ Motion, para. 6.

⁸ Registrar’s Submission, para. 6.

⁹ Registrar’s Submission, para. 7.



package on Wednesday 30 May 2007, the CDs will be served to the Defence in The Hague by the Sub-Office Court Management.”¹⁰

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8. In response to the Defence allegation that there is a “lack of proper filing by and service of documents on Defence Counsel in The Hague”, the Registrar submits that “according to information received by Court Management Section, a proper filing and service of documents in The Hague will be in place from the first week of June since Court Management is awaiting a workable fax line.”¹¹

9. In response to the Defence request that Court Management keep a record of the dates when filings are received by them and when they are served on the parties, the Registrar submits that “such procedure is already being used by Court Management.”¹²

10. Finally the Acting Registrar acknowledges that recent delays in electronic service of documents to both the Defence (since 17 May 2007) and the Prosecution (since 18 May 2007), “would have significant impact on the time limits contained in Motions and Orders”.¹³ The Acting Registrar suggests in view of the above, that with regard to the documents filed since 17 May 2007, the time limits set by Rule 7 be suspended until the parties have received those documents.¹⁴ The Acting Registrar therefore undertakes as follows:

- (i) All Court Documents filed until 25 May 2007 will be served in hard copies to the Parties in The Hague on 30 May 2007.
- (ii) A filing system will be in place in The Hague by the first week of June 2007; and
- (iii) In the meantime, time limits set out in Court documents filed from 17 May 2007 should be suspended.

Reply:

11. The Defence reiterates its submissions above and maintains its original request for orders.

II. Deliberations

12. The Trial Chamber notes that the Office of the Registrar does not dispute any of the complaints raised in the Motion by the Defence with regard to service of documents. The Acting-Registrar not only acknowledges the fact that the complaints are valid but also that the recent delays in service of documents are likely to significantly impact upon the time limits for filing of documents as prescribed in Rule 7. The Trial Chamber agrees with the Defence observations and adds that a delay in the service of documents not only affects the time limits prescribed under Rule 7 but also impedes the smooth running of the trial and ultimately violates the rights of the accused to a fair trial as he is not able to file timely responses to Prosecution motions.

¹⁰ Registrar’s Submission, para.8

¹¹ Registrar’s Submission, para.9

¹² Registrar’s Submission, para.10

¹³ Registrar’s Submission, para.11

¹⁴ Registrar’s Submission, para.12. The trial Chamber notes that the wording of this paragraph is not very clear as there appears to be some words missing.

13. Whilst acknowledging that with the setting up of the SCSL Sub-Office in The Hague, there are bound to be "teething problems" especially in technical areas such as filing and service of Court documents, the Trial Chamber agrees with the Defence that the Office of the Registrar has had nearly a year (since the transfer of Mr. Taylor to The Hague on 21 June 2006) to sort out these technicalities. That these difficulties persist less than a week to the opening of the trial is in the Trial Chamber's view, inexcusable. 9598

14. Again, whilst appreciating the stop-gap measures taken by Court Management Section to ensure that the Defence in The Hague is properly served with "hard copies of all documents filed in the Taylor case from the start of the case until Friday 25 May 2007", the Trial Chamber holds that the Office of the Registrar should expeditiously put into place more permanent measures and procedures aimed at ensuring that parties are properly and in a timely manner served with all relevant documents. In addition, the Acting-Registrar should consider the possibility of amending the Practice Direction on Filing of Documents Before the Special Court for Sierra Leone in order to streamline those procedures and to provide for any exigencies brought about as a result of the Taylor trial being conducted at The Hague rather than in Freetown.

III. Disposition

15. In the circumstances, the Trial Chamber hereby

GRANTS THE MOTION AND ORDERS Court Management Section:

1. To accept electronic filing in The Hague as soon as practicable; and
2. To serve all of the recent Prosecution Motions (those dated 14 May 2007 onwards) on the Defence in The Hague in hard copy;
3. To suspend the time limits set by Rule 7 with regard to the above documents until the Defence has been duly served in The Hague and has acknowledged receipt of service. This part of the Order supersedes the Trial Chamber's earlier Order for Expedited Filing with respect to the "Urgent and Public Prosecution's Motion for Admission of Material Pursuant to Rules 89 (C) and 92bis For Use During the Opening Statement";¹⁵

AND FURTHER DIRECTS the Office of the Registrar to expeditiously put into place more permanent measures and procedures aimed at ensuring that Parties in the Taylor case are properly and in a timely manner served with all relevant documents. The Acting-Registrar is further directed to consider the possibility of amending the Practice Direction on Filing of Documents Before the Special Court for Sierra Leone in order to streamline those procedures and to provide for any

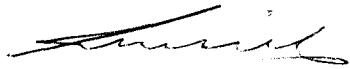
¹⁵ The Trial Chamber's Order for Expedited Filing of 28 May 2007 required the Defence to file a response to the Prosecution Motion "not later than 4.00 p.m. on Monday 28 May 2007".



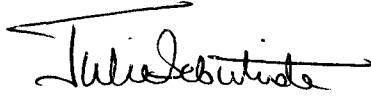
exigencies brought about as a result of the Taylor trial being conducted at The Hague rather than in Freetown.

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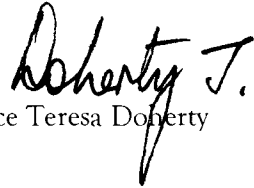
Done at Freetown, Sierra Leone, this 31st day of May 2007.



Justice Richard Lussick



Justice Julia Sebutinde
Presiding Judge



Justice Teresa Doherty

[Seal of the Special Court for Sierra Leone]

