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SCSL-03-01-T
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SPECIAL COURT FOR SIERRA LEONE

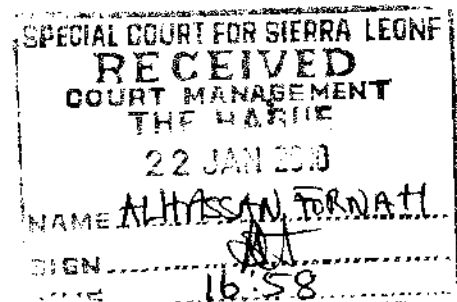
TRIAL CHAMBER II

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

Acting Registrar: Binta Mansaray

Case No.: SCSL-03-1-T

Date: 22 January 2010



PROSECUTOR

v.

Charles Ghankay TAYLOR

**DECISION ON PUBLIC WITH ANNEX A AND B AND CONFIDENTIAL ANNEX C URGENT
PROSECUTION REQUEST FOR AN ORDER TO DIRECT THE REGISTRY TO DISCLOSE
NON-PRIVILEGED INFORMATION**

Office of the Prosecutor:

Brenda J. Hollis
Nicholas Koumjian
Nina Jørgensen

Counsel for the Accused:

Courtenay Griffiths, Q.C.
Terry Munyard
Morris Anyah
Silas Chekera
James Supuwood

TRIAL CHAMBER II (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”);
SEISED of the “Public with Annex A and B and Confidential Annex C Urgent Prosecution Request for an Order to Direct the Registry to Disclose Non-Privileged Information”, filed on 13 January 2010 (“Motion”),¹ wherein the Prosecution requests the Trial Chamber to order the Acting Registrar to provide materials set out at paragraph 7 of the Motion as follows:

- i. All records or logs maintained by the ICC Detention Centre, or SCSL Registry, of phone calls received for Mr. Taylor or dialled out for Mr. Taylor on 29 May 2009, including the names given and corresponding telephone numbers for these calls, the times of calls, and the duration of the calls;
- ii. All phone bills related to calls made by Mr. Taylor on 29 May 2009;
- iii. Any and all incident reports relating to events on the 29 May 2009 from the ICC Detention Centre;
- iv. A list of all phone numbers designated for Mr. Supuwood as privileged communication lines for the period during which Mr. Taylor has been in custody;
- v. All records or logs maintained by the ICC Detention Centre, or SCSL Registry, of phone calls received for Mr. Taylor or dialled out for Mr. Taylor in relation to the phone numbers designated for Mr. Supuwood as privileged communication lines for the period during which Mr. Taylor has been in custody;
- vi. All records of policies and limitations regarding the use of privileged and non-privileged phone lines concerning Mr. Taylor;
- vii. All records of advisements given to Mr. Taylor as to these policies and limitations and all acknowledgements by Mr. Taylor of his awareness of

these policies and limitations, particularly the limitations on passing the phone to other persons;

The Prosecution further requests “an expedited timetable for filings and a determination of this matter and for compliance with any eventual order to the Acting Registrar”;²

NOTING that the Prosecution requested the disclosure of material set out in paragraph 7 of the Motion from the Acting Registrar on 2 December 2009;³

NOTING ALSO that this request was on 15 December 2009 denied by the Acting Registrar on the grounds *inter alia*, that such disclosure would infringe upon the rights of the Accused, and, in particular, upon his right to privileged communication with his defence lawyers;⁴

NOTING ALSO that in her letter of 15 December 2009, the Acting Registrar asserted to the Prosecution that “the monitoring regime Mr. Taylor is subject to entirely falls within my remit, pursuant to Rule 47 of the SCSL Rules of Detention and, as such, constitutes an administration decision solely geared to ensure the maintenance of security and good order within the Detention Facility as well as to ensure that there is generally no interference with the administration of justice”;⁵

RECALLING that on 1 July 2009 the Acting Registrar did provide to the Prosecution “information concerning the misuse of privileged access lines by the Accused surrounding the 29 May 2009 incident” and further notified the Prosecution in July 2009 that “there was then, and there is still today, no evidence that the Accused was attempting to pervert the course of justice, tamper with witnesses or interfere with trial proceedings”;⁶

MINDFUL that under Rules 3 and 47 of the Special Court Detention Rules (“Detention Rules”) matters relating to the detention of the Accused, including the monitoring of non-privileged communication, fall within the Registrar’s jurisdiction and that a decision of the Registrar in this

¹ SCSL03-01-T-874.

² Motion, para. 17.

³ SCSL03-01-T-874, Annex A. Letter from Mr. Joseph Kamara, Acting Prosecutor to Ms. Binta Mansaray, Acting Registrar, 2 December 2009.

⁴ SCSL03-01-T-874, Annex B. Letter from Ms. Binta Mansaray, Acting Registrar to Mr. Joseph Kamara, Acting Prosecutor, 15 December 2009.

⁵ *Ibid.*

⁶ *Ibid.*

regard may, pursuant to Rules 19 and 33 of the Rules of Procedure and Evidence (“Rules”), be subject to administrative review by the President of the Special Court;⁷

RECALLING the Trial Chamber’s “Confidential Decision on Prosecution Motion for an Order Prohibiting Contact between the Accused and Defence Witnesses or Alternative Relief”, dated 14 August 2009 (“Decision for an Order Prohibiting Contact”),⁸ wherein the Trial Chamber denied a similar request by the Prosecution to order the Acting Registrar to disclose certain records relating to telephone contacts with the Accused whilst in Detention, holding that “detention is [...] a matter for administrative rather than judicial decision [...] the principle remains that judges are generally not involved in administrative detention matters, including the detainee’s communications generally and telephone communications specifically”,⁹ and that the Trial Chamber may review the legality or reasonableness of administrative decisions only where such decisions impact adversely upon the fair-trial rights of the Accused or the integrity of the proceedings;¹⁰

HOLDING that since the above-mentioned decision, the Prosecution has not provided any further evidence that there has been any interference with the trial proceedings, and thus has not demonstrated that there is a risk to the integrity of the proceedings justifying a review of the Acting Registrar’s decision by the Trial Chamber;

SATISFIED that this Decision may be issued without awaiting a response from the Defence pursuant to Rule 7(B) as it does not prejudice the Defence and is in the interest of an expeditious administration of justice;

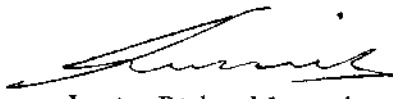
HEREBY DENIES THE MOTION

⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-832, Decision on Prosecution Motion for an Order Prohibiting Contact between the Accused and Defence Witnesses or Alternative Relief, 14 August 2009, para. 26. See also *Prosecutor v. Norman*, SCSL-04-14-RD47-442, Decision on Request to Reverse the Order of the Acting Registrar Under Rule 47(a) of the Rules of Detention of 6 June 2005, 29 June 2005, para 9; *Prosecutor v. Taylor*, SCSL-03-01-PT-137, Decision on Urgent and Public Defence Motion Requesting Removal of Camera from Conference Room, 30 November 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-110, Decision on Defence Oral Application for Orders Pertaining to the Transfer of the Accused to The Hague, 23 June 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-269, 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, 31 May 2007; *Prosecutor v. Taylor*, SCSL-03-01-PT-164, Joint Decision on Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr. Taylor’s Defence, 23 January 2007.

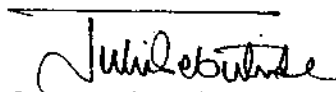
⁸ SCSL-03-01-T-832.

⁹ Decision for an Order Prohibiting Contact, para. 29.

Done at The Hague, The Netherlands, this 22nd day of January 2010.



Justice Richard Lussick



Justice Julia Sebutinde

Presiding Judge



Justice Teresa Doherty



¹⁰ Decision for an Order Prohibiting Contact, paras 29-30.