

SCSL-03-01-PT  
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**SPECIAL COURT FOR SIERRA LEONE**

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

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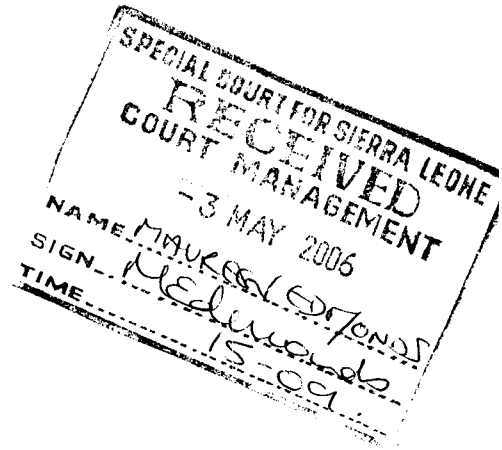
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**TRIAL CHAMBER II**

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

Registrar: Lovemore G. Munlo, SC

Date: 3 May 2006



PROSECUTOR    Against    Charles Ghankay Taylor  
(Case No.SCSL-03-1-PT)

**ORDER PURSUANT TO RULES 72(E) AND 72(F)**

URGENT DEFENCE MOTION FOR AN ORDER THAT NO CHANGE OF VENUE FROM THE SEAT OF THE COURT IN FREETOWN BE ORDERED WITHOUT THE DEFENCE BEING HEARD ON THE ISSUE AND MOTION THAT THE TRIAL CHAMBER REQUEST THE PRESIDENT OF THE SPECIAL COURT TO WITHDRAW THE REQUESTS PURPORTEDLY MADE TO (1) THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS TO PERMIT THAT THE TRIAL OF CHARLES GHANKAY TAYLOR BE CONDUCTED ON ITS TERRITORY & (2) TO THE PRESIDENT OF THE ICC FOR USE OF THE ICC BUILDING AND FACILITIES IN THE NETHERLANDS DURING THE PROPOSED TRIAL OF CHARLES GHANKAY TAYLOR

Office of the Prosecutor:

Mr. James C. Johnson  
Ms. Brenda Hollis  
Ms. Nina Jorgensen

Defence Counsel for Charles G. Taylor :

Mr. Karim A.A. Khan

**TRIAL CHAMBER II** (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”), composed of Justice Richard Lussick, presiding, Justice Teresa Doherty and Justice Julia Sebutinde;

**SEISED** of the Urgent Defence Motion for an Order That No Change of Venue From the Seat of the Court in Freetown be Ordered Without the Defence Being Heard on the Issue and Motion That the Trial Chamber Request the President of the Special Court to Withdraw the Requests Purportedly Made to (1) the Government of the Kingdom of the Netherlands to Permit That the Trial of Charles Ghankay Taylor be Conducted on its Territory & (2) to the President of the ICC for Use of the ICC Building and Facilities in the Netherlands During the Proposed Trial of Charles Ghankay Taylor, filed on 7 April 2006 (“Motion”);

**NOTING** the Prosecution Response to Taylor Urgent Motion Against Change of Venue, filed on 25 April 2006, (“Response”);

**NOTING** the Defence Reply to Prosecution Response to “Motion for an Order That No Change of Venue From the Seat of the Court in Freetown be Ordered Without the Defence Being Heard on the Issue and Motion That the Trial Chamber Request the President of the Special Court to Withdraw the Requests Purportedly Made to (1) the Government of the Kingdom of the Netherlands to Permit That the Trial of Charles Ghankay Taylor be Conducted on its Territory & (2) to the President of the ICC for Use of the ICC Building and Facilities in the Netherlands During the Proposed Trial of Charles Ghankay Taylor”, filed on 28 April 2006 (“Reply”);

**CONSIDERING** the provisions of Rule 72 of the Rules of Procedure and Evidence (“the Rules”) and in particular Rules 72(B)(i) and (v) which provide that preliminary motions by the accused are (i) Objections based on lack of jurisdiction, and (v) Objections based on abuse of process;

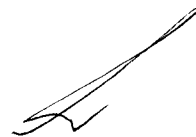
**NOTING** that the Defence, inter alia, raises objections based on lack of jurisdiction, namely:

- (a) that the President of the Special Court (“the President”) does not have the jurisdiction to decide on a change of venue for the trial of Charles Ghankay Taylor pursuant to Rule 4 of the Rules without first giving the Accused the right to be heard on the issue; and
- (b) that a decision on a change of venue for the said trial does not fall within the administrative functions of the President but is a matter which must be judicially determined;

**NOTING FURTHER** that the Defence argues in effect that the procedure adopted by the President is an abuse of the proper procedure in that:

- (i) it discriminates against the Accused in that all accused in other cases before the Special Court are being tried in Freetown;
- (ii) it contravenes Article 17(1) of the Statute of the Special Court for Sierra Leone, which provides that “All accused shall be equal before the Special Court”;
- (iii) it creates an appearance of unfairness in that it has been adopted unilaterally without having heard from the Accused;

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**HOLDING** that the Motion is therefore a preliminary motion with the meaning of Rule 72 of the Rules, notwithstanding that the Defence has purportedly sought relief pursuant to Rule 73 of the Rules;

**ALLOWING** the Accused to raise further objections based on lack of jurisdiction pursuant to Rule 72(C) of the Rules, having noted that an earlier motion filed on behalf of the Accused was concerned with a different jurisdictional issue<sup>1</sup>;

**CONSIDERING** Rules 72(E) and 72(F) of the Rules;

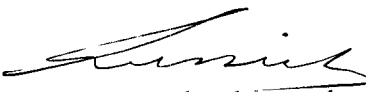
**THE TRIAL CHAMBER FINDS** that the Motion raises serious issues relating to jurisdiction and also raises issues that would significantly affect the fair and expeditious conduct of the proceedings;

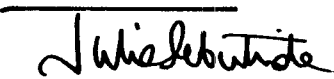
**AND ACCORDINGLY, PURSUANT TO RULES 72(E) AND (F) OF THE RULES,**

**REFERS** the Motion, Response and Reply to the Appeals Chamber for determination.

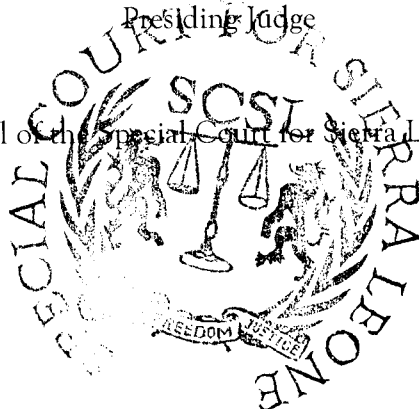
Done at Freetown this 3<sup>rd</sup> day of May 2006.

  
Justice Teresa Doherty

  
Justice Richard Lussick  
Presiding Judge

  
Justice Julia Sebutinde

[Seal of the Special Court for Sierra Leone]



<sup>1</sup> Prosecutor v. Charles Ghankay Taylor, Case No. SCSL-03-1-PT, Applicant's Motion Made Under Protest and Without Waiving Immunity Accorded to a Head of State President Charles Ghankay Taylor, filed on 23 July 2003.