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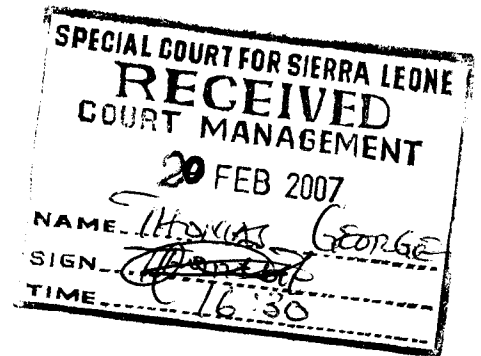
SCSL-03-01-PT  
(4391-4402)

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**THE SPECIAL COURT FOR SIERRA LEONE**

Case No.: SCSL-03-01-PT  
Before: Hon. Justice George Gelaga King, President  
Registrar: Mr Lovemore G. Munlo, SC  
Date filed: 20 February 2007



**THE PROSECUTOR**

-v-

**CHARLES TAYLOR**

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**REGISTRAR'S SUBMISSION PURSUANT TO RULE 33(B) IN RELATION TO ISSUES RAISED IN THE DEFENCE MOTION REQUESTING A 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**

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**Office of the Prosecutor**

Mr Stephen Rapp  
Ms Wendy van Tongeren  
Ms Shyamala Alagendra  
Mr Alain Werner

**Counsel for Charles Taylor**

Mr Karim A. A. Khan  
Mr Roger Sahota

## A. Introduction

1. On 19 June 2006 the President of the Special Court for Sierra Leone (SCSL) issued an Order pursuant to Rules 54 and 64<sup>1</sup> that Mr Charles Ghankay Taylor be transferred to and detained in appropriate facilities in The Hague in accordance with the conditions which had been set out in the agreements between the Registrar, the International Criminal Court (ICC) and the Government of the Netherlands.<sup>2</sup>
2. On the same date the President endorsed an Order of the Registrar according to which the rules of detention and standards of the International Criminal Court shall be applicable for the detention of the accused *mutatis mutandis* as well as the complaints procedure set out in rule 59 of The Rules of Detention of the SCSL.<sup>3</sup> On 21 June 2006 Mr Taylor was transferred to The Hague.
3. On 13 April 2006 the Registrars of the SCSL and the ICC concluded a Memorandum of Understanding (MoU) regarding administrative arrangements between the ICC and the SCSL which formed part of the agreements referred to in the Presidents Order of 19 June 2006.
4. On 14 December 2006 the Charles Taylor defence team (the Defence) filed a motion requesting the President to review the MoU between the ICC and the SCSL and to modify Mr Taylor's conditions of detention.
5. In the motion, Mr Taylor's Defence submits that the MoU has been applied to the effect that critical decisions relating to the day to day management of Mr Taylor's conditions of detention have been made *ad hoc* either unilaterally by the ICC, or through negotiations between the SCSL and the ICC, with the final authority apparently lying with the ICC.

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<sup>1</sup> The rules of Procedure and Evidence of the Special Court for Sierra Leone.

<sup>2</sup> The Presidents Order changing venue of proceedings of 19 June 2006.

<sup>3</sup> Order No. 2 & 5 of Presidents endorsement pursuant to Rule 64.

## **B. Comments on the Arguments Raised**

### **a) Ultra Vires**

6. The Defence states that the SCSL has sub-delegated its administrative powers to the extent that the seat of decision making was not in Freetown but at the ICC<sup>4</sup>.
7. This same point was raised in the Defence motion on video surveillance.<sup>5</sup> It was extensively dealt with in the Registrars response<sup>6</sup>.
8. The Registrar reiterates his position in relation to the Defence motion of 14 December 2006 and those arguments are considered to be included.<sup>7</sup> The Registrar further submits there is no merit whatsoever in the Defence submission that the detention regime which is applicable to Mr Taylor is *ultra vires*. The detention regime provided in the MoU has been specifically authorised by both the Presidents Order for change of venue and the President's endorsement of the Registrars Order for special measures.

### **b) Detention Framework**

9. The Defence states that the ICC detention regime differs significantly from that of the SCSL and that this violates Mr Taylor's right to equal treatment with the other SCSL detainees in Freetown.<sup>8</sup>
10. This matter was also dealt with extensively in the Registrar's response and those arguments are considered to be included.<sup>9</sup> The Registrar reiterates his position with regard to the Defence motion of 14 December 2006. Mr Taylor is subject to special measures of detention as set out in the Order of the President of 19 June 2006. A

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<sup>4</sup>Para 11 of The Defence motion.

<sup>5</sup> Defence reply to the "Registrar's submission on the corrigendum to the second defence motion requesting cessation of video surveillance of legal consultations", 19 January 2007.

<sup>6</sup> Registrar's response to the Defence reply to the Registrars submission on the Corrigendum to the second Defence motion requesting cessation of video surveillance of legal consultations, 23 January 2007. (Registrar's response).

<sup>7</sup> Paras 8 – 16 of Registrar's response.

<sup>8</sup> Para 3 of the Defence motion.

<sup>9</sup> Registrars response, para 17 and 18.

Careful analysis of the detention regimes of both the ICC and SCSL shows that they overlap and provide the accused with treatment that is fully in conformity with generally applicable international standards. The conditions pertaining ensure that Mr Taylor is treated with humanity and with respect for the inherent dignity of the human person.<sup>10</sup>

11. The Defence submits that the President of the SCSL direct the Registrar that the terms of the MoU and the Order of 19 June 2006 be reviewed along with modalities for its practical implementation.<sup>11</sup>

**c) Unduly restrictive conditions for visits**

12. The Defence submits that the ‘Application process for personal visitors to detainee Charles Taylor requiring a visa to enter the territory of the Netherlands’ allows only one visitor at a time which is prima facie discriminatory.<sup>12</sup>

13. The Registrar submits that this interpretation by the Defence of the visa application process is erroneous. The provision that ‘*Only one person will be allowed to visit at a time. A visiting minor can be accompanied by one additional person*’<sup>13</sup> does not relate to the regime for visiting the accused but relates to issuance of temporary visas to enter the Netherlands. Any visitor, having lawfully entered the Netherlands, is subject to the same ICC regulations for visiting detained persons and these allow for more than one visitor at a time.<sup>14</sup> As far as the Defence submission objects to the fact that only one person can be provided with a visa at the same time, the Registrar observes that this objection is entirely theoretical as the number of requests for visas has been very low and at no point have problems arisen as to visitors not being able to travel to The Hague because of number of applications pending.

<sup>10</sup> ICC, Regulations of the Court, Regulation 91(1).

<sup>11</sup> Para 9 of Defence motion.

<sup>12</sup> Para 16 of Defence motion.

<sup>13</sup> Clause 4 of The Application process For Personal Visitors to The Detainee Charles Taylor requiring a visa to Enter The Territory of The Netherlands. Annex I.

<sup>14</sup> This position has been explained to the Defence for Mr Taylor in a letter from the Deputy registrar dated 18 September 2006 marked Annex II and annexed hereto.

**d) Telephone Calls and DVD Player**

14. The Defence submits that Mr Charles Taylor had been allowed 100 fewer free call minutes per month than he had in Freetown.<sup>15</sup>
15. The Registrar submits that consultations between the Registry of the ICC and the Registry of the SCSL on the issue of telephone minutes have taken place and that it was agreed that the ICC regime should equally apply to all detainees at the ICC detention centre in The Hague.
16. The Defence requested that a DVD player be installed in Mr Taylor's cell at the ICC.
17. The Registrar submits that a DVD and audio equipment for recreational purposes are available in the ICC detention centre common room to which Mr Taylor has access and on which he can view programs that suit his taste. If, in addition, Mr Taylor should require access to a DVD player to study material of relevance to his defence then the ICC Detention centre will make arrangements for him to study this material in private.<sup>16</sup>

**e) Diet and Provisions**

18. The Defence submits that Mr Taylor's daily diet does not include African recipes. It is also argued that the ICC does not fulfil its legal obligation to take into account his 'habitual diet.'
19. The Registrar submits that requirements of detainees with regard to food are recognised in Rule 18 of the SCSL Rules of Detention which considers age, health and religious requirements as well as in the ICC Regulation 199, Regulations of the Registry which considers the detainees age, health, religion and cultural requirements.

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<sup>15</sup> See para 17 of Defence motion.

<sup>16</sup> Deputy Registrars letter to the Defence team of the 18<sup>th</sup> September 2006.

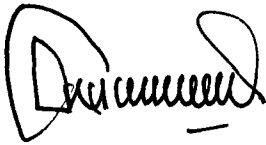
20. When Mr Taylor was first transferred to The Hague matters of his diet were raised and some adjustments were made. The caterer provides a variety of food items that sufficiently take into account his dietary preferences. In addition, Mr Taylor can make use of the extensive shopping list to buy food to his taste and can make use of cooking facilities in the Detention Unit thereby fully satisfying his own dietary preferences.

**Conclusion**

21. The Registrar respectfully submits that the President should reject the Defence motion.

Respectfully Submitted

Freetown, 20 February 2007



Lovemore G. Munlo SC  
Registrar

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AS APPROVED BY THE DUTCH AUTHORITIES - 31 August 2006

**APPLICATION PROCESS  
FOR PERSONAL VISITORS TO THE DETAINEE CHARLES TAYLOR  
REQUIRING A VISA TO ENTER THE TERRITORY OF THE NETHERLANDS**

1. The application process set out below consists of various stages and involves the Special Court and outside actors. Applicants should take this fact into account in their travel plans and allow for at least 3 weeks between the date of submission to the proposed travel date.
2. The Applicant needs to apply for a personal visit to the Registrar of the Special Court via the Defence Office. Applications need to be made in writing.
3. In order to enable the Registrar to decide on the application, the Applicant needs to provide the Registrar's office with the following documents:
  - a. A copy of his/her passport main pages showing his/her personal details (including photo). The passport should be sufficiently valid for at least 3 months after the expected date of return.
  - b. Proof of his/her habitual residence.
  - c. His/her personal relationship with Charles Taylor and proof (supporting documents) thereof.
  - d. His/her itinerary for the visit
    - i. A confirmed ticket reservation including return flight.
    - ii. The itinerary needs to be one single visit/trip by the applicant at a time.
    - iii. The (last leg of the) outward flight must depart outside the territory of the "Schengen" countries (Austria, Belgium, Denmark, Finland, France, Germany, Iceland, Italy, Greece, Luxembourg, Netherlands, Norway, Portugal, Spain and Sweden) with destination Amsterdam International Airport (Schiphol). No transit in "Schengen" countries is allowed.
    - iv. The (first leg of the) return flight must depart from Amsterdam International Airport (Schiphol) to a destination outside the territory of the "Schengen" countries. No transit in "Schengen" countries is allowed.
    - v. The Applicant is responsible for arranging any transit visa that might be required on his/her route to and from Amsterdam.

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- vi. The maximum duration of stay in The Netherlands may not exceed fourteen (14) days and is limited to the territory of The Netherlands only.
  - e. His/her residence in The Netherlands.
  - f. Proof of sufficient funds to support himself/herself during his/her stay in The Netherlands (e.g., personal guarantors, bank statements).
  - g. A signed statement as to whether the applicant is aware of any concrete security threats against him/her.
  - h. A completed visa application form. The form is available from Dutch embassies and consulates or on the website of the Dutch Ministry for Foreign Affairs ([www.minbuza.nl](http://www.minbuza.nl)). The visa form should be filled out duly.
  - i. 2 recent photos with light background
  - j. A statement as to which Dutch embassy the applicant will be using for the processing of his/her application as well as telephone contact details in the country of the chosen embassy. The Applicant will need to be able to report to the chosen embassy in person, if his/her application is successful.
  - k. His/her contact details (preferably e-mail or fax).
  - l. An ICC Visit Request.
4. Only one person will be allowed to visit at a time. A visiting minor can be accompanied by one additional person.
  5. Incomplete applications will be rejected by the Registrar.
  6. The assessment of the application by the Registrar will include a security clearance by the Special Court's Security Section.
  7. The Applicant will be informed in writing about the Registrar's decision, via the Defence Office.
  8. If the application is approved by the Registrar, the Registrar's office will forward all application documents to the Dutch embassy indicated in the application. The Registrar's office will enclose a written statement that the application has been approved by the Special Court. The documents shall be forwarded by courier services (DHL or similar) at the cost of the Special Court.



9. If the Dutch embassy has approved the application, it will advise the applicant to report to the embassy in person to collect the visa. The applicant needs to bring his original passport, his/her original confirmed flight ticket and a medical travel insurance valid for the Schengen countries with a minimum coverage of € 30.000. Upon issuance of the visa, the Applicant will be able to travel immediately.



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**18 September 2006**

Karim Khan,  
Office for the Defence of Mr Charles Taylor  
Freetown

Dear Mr Khan,

On 22 August 2006, you sent me an email raising a number of issues primarily relating to the conditions of detention for and welfare of Mr Charles Taylor at the Detention Unit of the International Criminal Court (ICC) in The Hague. After consultations between the ICC and the Special Court, I can now inform you of the following:

1. Visa issue

In your email you refer to the fact that the issue of visas has taken a considerable amount of time to resolve. In response to that, I can inform you that in the meantime an agreement has been reached with the Dutch authorities on the procedure to be followed for every member of the family of Mr Taylor who requires a visa. In relation to the first applicant, this procedure has been applied and a visa is about to be issued, in order for the applicant to travel to The Hague in the coming days. For future applications, it is expected that the entire procedure, as of the moment of submission of all relevant information, may be completed roughly within a period of three weeks.

It needs to be emphasised that this procedure only applies to members of the family of Mr Taylor who reside in countries for which a visa is required. I have been informed that Mr Taylor also has family members living in the United States. For these family members, no visa is required and visits can take place at any time, in accordance with the visit regulations of the ICC Detention Unit.

2. Meals provided in the Detention Unit

Following up to earlier discussions on the meals provided in the Detention Unit, the caterer has agreed to provide for more variety in the meals and Mr Taylor has the possibility to choose from different meals every day. In addition, Mr Taylor is entitled to purchase food at his own expense from an extensive shopping list. At the Detention Unit cooking facilities are at Mr Taylor's disposal. It would seem that these facilities in its totality provide Mr Taylor ample opportunity to have meals that are fully in conformity with his preferences.



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3. Use of a DVD player

The question as to whether Mr Taylor would be entitled to have a DVD player being purchased for his own use in his cell, has to be answered in the negative. In the recreation room for all accused in the Detention Unit there is already audio and DVD equipment that Mr Taylor can use for recreational purposes. There is no need for an additional DVD player for such purposes in his own cell.

However, as far as Mr Taylor may require access to a DVD player in order to study material of relevance for his Defence, the Detention Unit will provide him with adequate facilities in order to study in private any such material.

4. Toothpaste and other personal hygienic issues

Also the question as to whether Mr Taylor would be entitled to have toothpaste or deodorant or other issues purchased in accordance with his personal preference has to be answered in the negative. The shopping list referred to above provide Mr Taylor with a sufficient choice of products. Mr Taylor does not have a right to an unlimited choice of such products. However, when for medical reasons Mr Taylor is required to use a particular product obviously such products will be made available to him. In such instances, Mr Taylor is advised to make use of the medical services available in the Detention Unit in order to establish such a medical need. In addition, it lies at the discretion of the Detention authorities to respond positively to any other requests that Mr Taylor may have, also when there does not exist a right to certain services, such as his request to use his own towels.

5. Use of hair and beard trimmer

As to Mr Taylor's personal hair and beard trimmer, I can inform you that Mr Taylor has access to a hair and beard trimmer provided for by the Detention Unit. It is correct that at the moment a personal hair and beard trimmer was delivered to the Detention Unit for Mr Taylor some time was needed to clear that trimmer. The clearance of such a tool is a totally different process than the simple scanning through machines that are commonly used at airports. The ICC Detention Unit makes use of specialised assistance for such clearance that is in place for all Dutch detention facilities. Such clearance can indeed take up to a couple of weeks.

6. Telephone calls

The issue of the number of minutes of telephone communication per month that Mr Taylor, at the expense of the ICC and/or SCSL, may be entitled to is still under consideration. As you are aware, the ICC regulations and the SCSL regulations provide for different answers to this question.



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Consultations with the ICC are still ongoing in order to find a solution. It is expected that this issue is soon to be finalised.

7. It is correct that at the moment recruitment is underway in order to ensure that in the foreseeable future a Duty Officer of the Special Court's Defence Office will be stationed in The Hague. Although an exact starting date of the Officer in The Hague is not yet determined, the Special Court will keep you informed about any developments in this regard.

I hope that with this information I have answered all questions relating to the welfare of Mr Taylor in the ICC Detention Unit. Don't hesitate to contact me if there are any other issues that may require attention.

Sincerely yours

Herman von Hebel  
Deputy Registrar  
Special Court for Sierra Leone