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SCSL-03-01-PT  
(9388-9392)

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**THE SPECIAL COURT FOR SIERRA LEONE**

**In Trial Chamber II**

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

**Registrar:** Mr. Herman von Hebel, Acting Registrar

**Date:** 21 May 2007

**Case No.:** SCSL-2003-01-PT

SPECIAL COURT FOR SIERRA LEONE	
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21 MAY 2007	
NAME	Advera Nsimah K.
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TIME	16:46

**THE PROSECUTOR**

-v-

**CHARLES GHANKAY TAYLOR**

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PUBLIC

**DEFENCE MOTION PURSUANT TO RULE 7bis  
SEEKING EXTENSION OF TIME TO RESPOND TO  
PROSECUTION'S MOTION FOR JUDICIAL NOTICE**

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**Office of the Prosecution**

Ms. Brenda Hollis  
Ms. Wendy van Tongeren  
Ms. Ann Sutherland  
Ms. Shyamala Alagendra  
Mr. Alain Werner  
Ms. Leigh Lawrie

**Counsel for Charles Taylor**

Mr. Karim A. A. Khan  
Mr. Roger Sahota

## I. Introduction

1. Pursuant to Rule 7bis of the Special Court Rules of Procedure and Evidence (“Rules”), the Defence file this Motion seeking an extension of time to respond to the “Prosecution’s Motion for Judicial Notice”, dated 14 May 2007, served on 17 May 2007 (“Judicial Notice Motion”).<sup>1</sup> Pursuant to Rule 7(C), the Defence should ordinarily respond to the Judicial Notice Motion within ten days of receipt of the Motion from the Registry. However, given that the Judicial Notice Motion and its annexes amount to 2,129 pages in totality, and given the careful evaluation that each document requires, the Defence request an extension of time until 04 September 2007 to file a Response.

## II. Legal Basis

2. Rule 7bis allows parties to submit a Motion for Extension of Time to the Trial Chamber. The Rule itself does not specify the test that should be applied when considering such applications. However, the Special Court has previously provided guidance on this issue. In *Prosecutor v. Kallon*, the Trial Chamber noted that extensions of time should only be granted upon the showing of “exceptional circumstances or good cause.”<sup>2</sup> The Court applied this same test in other cases as well.<sup>3</sup>

## III. The Defence Has Good Cause for the Requested Extension of Time

3. The Judicial Notice Motion purports to contain no fewer than 107 “facts”. The Prosecution seeks that judicial notice be taken of these purported facts under Rule 94(A) of the Rules.

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<sup>1</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-236, Prosecution’s Motion for Judicial Notice, 14 May 2007 (“Judicial Notice Motion”).

<sup>2</sup> *Prosecutor v. Kallon*, SCSL-03-07-PT-54, Order on the Defence Application for Extension of Time to file Reply to Prosecution Response to Preliminary Motions, 24 June 2003.

<sup>3</sup> *Prosecutor v. Brima*, SCSL-03-06-PT-77, Decision on the Application for Extension of Time for Leave to be Granted to File Defence Motion to Appeal Against the Decision Refusing an Application for the Issue of the Writ of *Habeas Corpus*, 15 October 2003 (denying extension of time where Defence counsel had not shown sufficient proof that illness kept him from filing in time); *Prosecutor v. Brima, Kamara, Kanu*, SCSL-04-06-T-740, Order for Extension of Time to Re-File Kondewa Final Trial Brief, 24 November 2006, pg. 2 (finding good and sufficient cause or exceptional circumstances to grant an extension of time where only one Defence counsel was present to work on the final trial brief)

Rule 94(A), of course, materially differs from Rule 89(C). Under the latter Rule, evidence is admitted that is relevant and its weight is ordinarily determined at a later stage. Rule 94(A), however, calls for a finding that facts are conclusively proved. Given the consequences following a finding of judicial notice, it is only proper that the Defence are given sufficient time to scrutinise the relevant documents with regard to the intended basis under which the Prosecution seek their admission into evidence.

4. The timing of the Motion for Judicial Notice is unfortunate. The Defence has repeatedly emphasised that it is under-staffed and under-resourced and will not be properly ready for trial by 04 June 2007.<sup>4</sup> Compared to that, the Prosecution have repeatedly asserted that they are trial ready.<sup>5</sup> In these circumstances, a reasonable and diligent Prosecutor, properly conducting himself, would have been expected to have filed the present Motion months ago, rather than on the eve of trial.
5. The Defence have not been served with hard copies of the Judicial Notice Motion. This may seem a mundane matter, but in reality it has caused serious difficulties for the Defence. It is an incredibly time-consuming exercise to download and print 50 pdf documents. It is rendered all the more difficult when The Hague sub-office has run out of paper for the second time in two weeks.
6. The Prosecution filed another Motion, 397 pages in length, with CMS on 16 May 2007, which was subsequently served on the Defence.<sup>6</sup> The cumulative effect of these significant filings at this juncture makes it impossible for the Defence to properly respond to the

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<sup>4</sup> Even now, a motion is pending before the Trial Chamber seeking leave by the Defence to Appeal the Trial Chamber's denial of more time for the Defence to prepare for the start of trial. *Prosecutor v. Taylor*, SCSL-03-01-PT-230, Defence Application for Leave to Appeal the 25 April 2007 "Decision on Defence Motion Requesting Reconsideration of 'Joint Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr. Taylor's Defence,' dated 23 January", 30 April 2007.

<sup>5</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT, Status Conference, Transcript, 21 July 2006, page 5, line 23; page 7, line 16; Second Status Conference, Transcript, 22 September 2006, page 15 line 27; page 40, line 20.

<sup>6</sup> *Prosecutor v. Taylor*, SCSL-03-01-PT-239, Prosecution's Motion for Admission of Material Pursuant to Rules 89(C) and 92bis for Use During Opening Statement, 16 May 2007. This Motion and attachments were sent by CMS after business hours on 18 May 2007. It seems that due to the size of the attachments and, or a slow server in Freetown, there was a delay in that the attachments were received on Saturday 19 May 2007.

Judicial Notice Motion, subject to the present application, without the requested extension of time.

**IV. Conclusion**

7. The requested extension of time will not cause any prejudice to the Prosecution. Accordingly, the Defence submit they have established good cause and pray that the present Motion be granted.

Respectfully Submitted,



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**Karim A. A. Khan**

**Lead Counsel for Mr. Charles Taylor**

Dated this 21<sup>st</sup> Day of May 2007

## Table of Authorities

### **Prosecutor v. Taylor**

*Prosecutor v. Taylor*, SCSL-03-01-PT-230, Defence Application for Leave to Appeal the 25 April 2007 “Decision on Defence Motion Requesting Reconsideration of ‘Joint Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr. Taylor’s Defence,’ dated 23 January”, 30 April 2007

*Prosecutor v. Taylor*, SCSL-03-01-PT-236, Prosecution’s Motion for Judicial Notice, 14 May 2007

*Prosecutor v. Taylor*, SCSL-03-01-PT-239, Prosecution’s Motion for Admission of Material Pursuant to Rules 89(C) and 92*bis* for Use During Opening Statement, 16 May 2007

*Prosecutor v. Taylor*, SCSL-03-01-PT, First Status Conference, Transcript, 21 July 2006.  
Online: <http://scsl-server/sc-sl/new/Transcripts/Taylor/CGT21JULY06SC.pdf>

*Prosecutor v. Taylor*, SCSL-03-01-PT, Second Status Conference, Transcript, 22 September 2006. Online: <http://scsl-server/sc-sl/new/Transcripts/Taylor/CGT22SEP06.SC.pdf>

### **Special Court Jurisprudence**

*Prosecutor v. Kallon*, SCSL-03-07-PT-54, Order on the Defence Application for Extension of Time to file Reply to Prosecution Response to Preliminary Motions, 24 June 2003

*Prosecutor v. Brima*, SCSL-03-06-PT-77, Decision on the Application for Extension of Time for Leave to be Granted to File Defence Motion to Appeal Against the Decision Refusing an Application for the Issue of the Writ of *Habeas Corpus*, 15 October 2003

*Prosecutor v. Brima, Kamara, Kanu*, SCSL-04-06-T-740, Order for Extension of Time to Re-File Kondewa Final Trial Brief, 24 November 2006