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SCSL-03-01-T  
( 26514 - 26527 )

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**THE SPECIAL COURT FOR SIERRA LEONE**

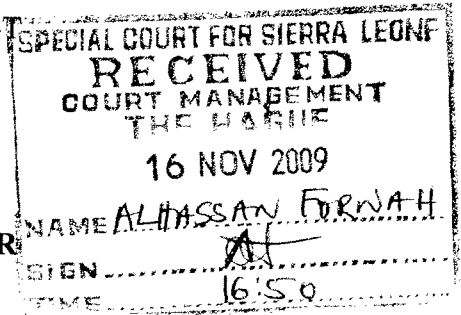
**Trial Chamber II**

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

**Acting Registrar:** Ms. Binta Mansaray

**Date:** 16 November 2009

**Case No.:** SCSL-03-01-



**THE PROSECUTOR**

-v-

**CHARLES GHANKAY TAYLOR**

**PUBLIC WITH CONFIDENTIAL ANNEX A**

**DEFENCE RESPONSE TO THE PUBLIC PROSECUTION MOTION FOR AN ORDER  
RESTRICTING CONTACT BETWEEN THE ACCUSED AND DEFENCE COUNSEL  
DURING CROSS-EXAMINATION**

**Office of the Prosecutor:**

Ms. Brenda J. Hollis  
Mr. Nicholas Koumjian  
Ms. Nina Jørgensen  
Ms. Kathryn Howarth

**Counsel for the Accused:**

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

## I. INTRODUCTION

1. This is the Defence Response to the “Public Prosecution Motion for an Order Restricting Contact between the Accused and Defence Counsel during Cross-Examination” filed on 12 November 2009.<sup>1</sup> The Defence files this response in accordance with the Trial Chamber’s Order for expedited filing on 10 November 2009.<sup>2</sup>
2. The Defence maintains, in response, that the Accused has a fundamental right to access to his counsel throughout every stage of the proceedings. Restriction of this right, and the imposition of any requirement of notice and approval by the Prosecution before any communication between counsel and the Accused occurs, would violate the basic rights of the Accused guaranteed by Article 17 of the Statute of the Special Court for Sierra Leone.<sup>3</sup> Additionally, and bearing in mind indications thus far received from the Prosecution regarding its intention to utilise material not exhibited during its case-in-chief (nor disclosed to the Defence) during the cross-examination of the Accused<sup>4</sup>, the Accused would be denied the right to effective legal assistance, advise and counsel, should the right to contact counsel be suspended during cross-examination. Consequently, and on the basis of that and other articulated arguments below, the Defence avers that the Prosecution’s Motion should be dismissed in its entirety.

## II. BACKGROUND

3. The issue of the Accused’s right of access to counsel was mentioned by the Defence in its Application for Leave to Appeal the 4 May 2009 Oral Decision Requiring the Defence to Commence its Case on 29 June 2009 filed on 11 May 2009 (“CMS 777”).<sup>5</sup> The Defence noted the necessity of the Accused to provide instructions to his team regarding ongoing field investigations and witness interviews whilst on a daily basis being examined in court and preparing (for his Defence) after court with Lead Defence Counsel.<sup>6</sup>

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<sup>1</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-854, “Public Prosecution Motion for an Order Restricting Contact Between the Accused and Defence Counsel during Cross-Examination”, 12 November 2009 (“**Motion**”).

<sup>2</sup> *Prosecutor v. Taylor*, Transcript, 10 November 2009, 31565.

<sup>3</sup> The Statute of the Special Court for Sierra Leone, Art. 17. (“**The Statute**”).

<sup>4</sup> *Prosecutor v. Taylor*, Transcript, 12 November 2009, 31631-31637.

<sup>5</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-777, “Application for Leave to Appeal the 4 May 2009 Oral Decision Requiring the Defence to Commence its Case on 29 June 2009”, 11 May 2009

<sup>6</sup> *Ibid*, para.17 of CMS 777.

4. On 5 June 2009, the Defence received notice of additional agenda items for the Pre-Defence Conference by an email from the Prosecution. One of the agenda items was Defence counsel's access to the Accused during his testimony regarding matters related to his testimony.<sup>7</sup>
5. During the 8 June 2009 Pre-Defence Conference, Lead Defence Counsel asserted the importance of not limiting the Accused's fundamental right of access to counsel at all stages of the proceedings.<sup>8</sup> Lead Defence Counsel addressed the issue of the Accused's access to Counsel by noting that the nature and magnitude of this particular case made the basic principle of limiting the Accused's access to Counsel during testimony impractical and unfair; thus requiring a greater degree of flexibility. Lead Defence Counsel emphasized that in order to properly investigate and prepare the Accused's defence, access to the Accused by all members of the Defence Team was crucial. Lead Defence Counsel maintained that this access would be necessary to "progress the investigation of his case whilst he is giving evidence, so that relates to matters outside of and beyond his own testimony" and provide the necessary assistance "in relation to the testimony he is giving in light of the length, detail and necessarily comprehensive nature of the evidence."<sup>9</sup> In response, the Prosecution's Principal Trial Attorney clarified that in terms of Defence contact with the accused, "We can understand that the Defence may require [access to the accused] for their investigation and for that reason we would have no objection to that."<sup>10</sup>
6. On 6 July 2009, during the second Pre-Defence Conference, The Prosecution noted their position regarding the Accused's contact with potential Defence witnesses, but made no change to their prior acceptance that the Defence would require access to the Accused for the further investigation and proper preparation of the Defence case, neither did the Prosecution make any distinction between what rule should obtain during the direct-examination of the Accused vis-à-vis during his cross-examination.<sup>11</sup> In response to the Judge's order to file a formal Motion regarding access by Accused to potential Defence witnesses, the Prosecution filed a motion on 10 July 2009 clarifying that, "The Prosecution does not seek to restrict

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<sup>7</sup> Confidential Annex A : Email Re: Proposed agenda items, 05 June 2009.

<sup>8</sup> *Prosecutor v. Charles Taylor*, Transcript, 8 June 2009, 24247-24252.

<sup>9</sup> *Prosecutor v. Charles Taylor*, Transcript, 8 June 2009, 24248.

<sup>10</sup> *Prosecutor v. Charles Taylor*, Transcript, 8 June 2009, 24249.

<sup>11</sup> *Prosecutor v. Charles Taylor*, Transcript, 6 July 2009, 24277-24278.

contacts between the Accused and his counsel, nor does the Prosecution in this motion seek to restrict the ability of the Accused's lawyers and investigators to contact Defence witnesses."<sup>12</sup>

7. During the 14 July 2009 proceedings, the Presiding Judge observed that the usual words of caution would be given each day in order to remind the Accused not to discuss the evidence with any other person but his Counsel. The Presiding Judge made a specific note that the right of the Accused in Article 17 must be read into this warning.<sup>13</sup> Furthermore, and when discussing the purpose and scope of cross-examination, the Presiding Judge reiterated that suspicion of coaching the witness could be remedied and revealed through questions asked during cross-examination.<sup>14</sup>
8. The Trial Chamber has not formally ruled on the issue of contact between the Accused and Defence Counsel because the Prosecution had made the concession that such contact was permissible in prior proceedings.<sup>15</sup>
9. The testimony of the Accused has lasted for more than fourteen weeks since it commenced on 14 July 2009, and there has been no allegation, to date, that the Accused has abused his right of access to counsel. Indeed, it is submitted that there is a much greater risk or danger on direct-examination for occurrence of the apparent mischief that is feared by the Prosecution. In the Defence's view, direct-examination is more susceptible than cross-examination to the danger of coaching which is at the heart of the Motion.

### III. APPLICABLE RULES AND SUBMISSION

10. Throughout the proceedings, the Accused is guaranteed certain fundamental rights by the Statute and general principles of international human rights jurisprudence regarding access to counsel.<sup>16</sup> Article 17(4)(b) of the Statute guarantees the Accused the right to communicate with counsel while having the time and facilities to prepare the defence case.<sup>17</sup>

<sup>12</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-808, "Public Prosecution Motion for an Prohibiting Contact Between The Accused And Defence Witnesses or Alternative Relief", 10 July 2009, Pg. 2, para. 3.

<sup>13</sup> *Prosecutor v. Charles Taylor*, Transcript, 14 July 2009, 24456.

<sup>14</sup> *Prosecutor v. Charles Taylor*, Transcript, 14 July 2009, 24455.

<sup>15</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-808, "Public Prosecution Motion for an Prohibiting Contact Between The Accuse And Defence Witnesses or Alternative Relief", 10 July 2009, Pg. 2, para. 3.; *Prosecutor v. Charles Taylor*, Transcript, 8 June 2009, 24249.

<sup>16</sup> Statute of the Special Court for Sierra Leone, Art. 17(4)(b); 999 U.N.T.S 171, The International Covenant on Civil and Political Rights, Art. 14(3)(b) and (d) maintain the right of the accused to have both the time and facilities to prepare an adequate defence and the right to communicate with his counsel. Section (d) maintains the right to be assigned counsel as a *minimum guarantees* [emphasis added].

<sup>17</sup> Statute, Article 17(4)(b).

11. The ICTY Appeals Chamber ruled in *Prlic* that the right of the Accused to communicate with counsel was a fundamental right at *any stage of the proceedings* [emphasis added].<sup>18</sup> Going on to clarify the scope of this right, the *Prlic* Chamber made it clear that in a lengthy, complex, and large cases before an International Tribunal, taking away the right of the Accused to communicate with counsel for an extended period of time would “undermine one of the most important basic rights of an accused and endanger the integrity and fairness of the proceedings as a whole.”<sup>19</sup> In this regard, it is noteworthy that Article 20 (3) of our Court’s Statute dictates that the judges of the Appeals Chamber of the Special Court shall be guided by the decisions of the Appeals Chamber of the International Tribunals for the former Yugoslavia and for Rwanda.
12. Consistent also with fundamental international human rights principles, the Accused has the right to confidential communication with his Counsel, binding Counsel to not reveal information entrusted to Counsel concerning the representation of the Accused. As the right to communicate with Counsel through all stages of the proceedings is guaranteed, the right to confidentiality of these communications must attach and be applied consistently at every stage of the trial.<sup>20</sup>

### *The Accused as Witness*

13. Rule 85 of the Rules of Evidence and Procedure for the Special Court of Sierra Leone control the presentation of evidence before the court.<sup>21</sup> Rule 85(C) confirms that the Accused may appear as a witness on his own behalf. Rule 85(A) delineates the presentation of evidence to include both evidence presented during the Defence case, and in rebuttal by the Prosecution with leave of the Trial Chamber.<sup>22</sup>
14. However, the use of the word “witness” in Rule 85 does not specify that the Accused must be held to the same rules while testifying as are other witnesses before an International Tribunal.<sup>23</sup> The necessity for the Accused to give instructions for the ongoing investigation

<sup>18</sup> *Prosecutor v. Prlic et al.*, IT-04-740AR73.10, “Decision on Prosecution’s Appeal against Trial Chamber’s Order on Contact between the Accused and Counsel during an Accused’s Testimony pursuant to Rule 85(c)”, 5 September 2008 (“**Prlic Appeal Decision**”), para 14. The decision stated that the Statute granted this right with language that lists no caveats or compromises and goes on to characterize the right to communication with counsel as a “guiding principle.”

<sup>19</sup> *Prlic Appeal Decision*, para 14-16.

<sup>20</sup> *Prlic Appeal Decision*, para 19.

<sup>21</sup> Rules of Evidence and Procedure of the Special Court for Sierra Leone (“the Rules”), Rule 85.

<sup>22</sup> Rules 85(A) and (C).

<sup>23</sup> *Prlic Appeal Decision*, para 11. *Prosecutor v. Stabislav Galic*, Case No. IT-98-29-A, Judgment, 30 November 2006, paras 19-20.

and preparation of his case distinguishes the Accused from other witnesses. The *Prlic* Chamber made clear that holding the Accused up to the same rules as other witnesses is “incompatible with his rights,” making these rules inapplicable to the Accused.<sup>24</sup>

15. The Prosecution maintains that the CDF case<sup>25</sup> is applicable to the issue *sub judice*. The Defence respectfully disagrees, maintaining instead that the CDF case is distinguishable from this case, in that there were multiple accused in the CDF case, thus heightening the risk of cross-contamination in the giving of evidence. Mr. Taylor is the sole accused in this case and has been previously indicated, there has been no complaint during his lengthy examination in-chief that his ability to consult with counsel has been abused.

***Distinction of the right of the Accused on the examination-in-chief and cross-examination***

16. There is no international jurisprudence which supports a curtailment of the Accused’s rights as between examination-in-chief and cross-examination. The language of Rule 85 groups both phases of the Accused’s testimony as a joint part of the giving of evidence. The *Prlic* Court used strong language to rule that whether the Accused is giving evidence during his examination-in-chief or clarifying his evidence in cross-examination, “his right to communication with counsel at any stage of the proceeding” is guaranteed to him under the ICTY Statute.<sup>26</sup>
17. The primary purpose of the Motion is ostensibly to prevent “coaching” or rehearsal of the Accused. The Defence does not see any reason why the same rule for the examination-in-chief should not apply to cross-examination, especially since it would be impossible, logically, for the Defence to “coach” the Accused during cross-examination. More specifically, the Defence cannot predict which questions will be asked during cross-examination and would, therefore, be unable to “coach” the Accused in giving his answer in a manner favourable to the Defence. Indeed, the feared risk might rightly be viewed as being greater during examination-in-chief during which the Accused’s right to communicate with his counsel authorised. *A fortiori* why this right should not be restricted during cross-examination.
18. The Prosecution suggests one purpose of cross-examination as a means of testing the credibility of the evidence. Challenging the evidence given by the Accused during examination-in-chief is a very important function of cross-examination, but while requiring

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<sup>24</sup> *Ibid.*

<sup>25</sup> The Motion, para. 11

<sup>26</sup> *Prlic* Appeal Decision, para 19.

the Accused “to elaborate on points requiring clarification” the Accused would still be submitting and presenting evidence to the Court.<sup>27</sup> Both examination-in-chief and cross-examination are phases of the presentation of evidence by the Accused and any other witness, thus the Accused must be guaranteed consistency in the rights which he is afforded.

***No alleged misconduct of inappropriate/unethical communication***

19. In filing the Motion and seeking to limit the Accused’s fundamental right of access to counsel, the Prosecution nowhere alleges a credible basis warranting any suspicion of the occurrence of unethical coaching of the Accused by defence counsel. No such allegation has been made because, to state so bluntly, because no such unethical coaching and/ or other like conduct has occurred. The Prosecution has instead taken the position that misconduct must be presumed<sup>28</sup> and the Accused’s right, consequently, must be limited. However, the Appeals Chamber in *Prlic* took the opposite view when it made clear that a Trial Chamber “should generally presume, absent evidence to the contrary, that conversations between an Accused and his Counsel will be appropriate.”<sup>29</sup> Further, this Trial Chamber has adopted the same standard for the Accused, indicating that a witness cannot be automatically deemed to be unreliable without cause to believe his testimony lacks credibility.<sup>30</sup> The fact remains in that the Prosecution at bar has not made any sort of showing to suggest that inappropriate conversations between Counsel and the Accused risking the integrity of the proceedings have occurred.

***Existing remedy for alleged inappropriate/unethical communication***

20. Significantly, and if the Prosecution has cause to believe that Defence Counsel would inappropriately “coach” the Accused during his cross-examination, the remedy of cross-examination is still available. As noted by the Prosecution, cross-examination is a “means of testing the credibility of the witness” and requiring the witness to elaborate or make clarifications.<sup>31</sup> Though the Accused is entering the cross-examination phase of giving evidence, there is nothing stopping the Prosecution from inquiring about the appropriateness

<sup>27</sup> *Prosecutor v. Prlic et al.*, IT-04-74-T, “Order Clarifying the Relationship between Counsel and an Accused Testifying within the Meaning of Rule 85(C) of the Rules, 11 June 2009, p. 6, para. 3.; *Motion*, at para. 9.

<sup>28</sup> *Motion*, at para. 21.; *Prosecutor v. Charles Taylor*, Transcript, 10 November 2009, 31563.

<sup>29</sup> *Prlic* Appeal Decision, para 18.

<sup>30</sup> *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-T-412, “Decision on Confidential Urgent Joint Defence Motion to Exclude Evidence given by Witness TFI-157 and Evidence to be Given by Witness TFI-158 Based on Lack of Authenticity and Violation of Rule 95,” 10 October 2005, para. 16. quoting, *Prosecutor v. Tadic*, Case No. IT-94-I-T Opinion and Judgment, 7 May 1997, para.541.

<sup>31</sup> *Motion*, at para. 9

of his conversations with Counsel or whether he was coached regarding questions during cross-examination. The commencement of cross-examination does not negate the remedy of testing the credibility of the Accused, justifying a move to limit the Accused's right,<sup>32</sup> but merely makes cross-examination as a remedy more immediate and available.

21. In addition to the remedy of cross-examination for suspicions of misconduct, the Court provides a daily safeguard to the integrity of the proceedings. Since the beginning of the Accused's examination-in-chief, the Presiding Judge gives a daily caution to the Accused not to discuss his evidence with anyone person. Indeed, Trial Chamber II in the case of *Brima, Kamara and Kanu* re-asserted this safeguard by stating that, "We consider that those were reasonable measures and that, in the circumstances, additional measures were neither practical nor necessary." The Prosecution's suggestion that the mere existence of rules of ethics presupposes that the Accused and his Counsel act unethically, ignores the daily caution that is given by the Presiding Judge. Arguing that the Accused must have his fundamental right to counsel restricted, suggests that the Presiding Judge's caution should be presumed as being ineffective and counsel's ethical duty to the court should be deemed meaningless.

***Practical Implications of Granting the Prosecution's Motion***

22. In addition to limiting the Accused's right of access to counsel, granting the Prosecution's request concerning both access to counsel and providing notice to the Prosecution of prospective contacts between the Accused and counsel, infringes on other basic rights of the Accused and jeopardises the integrity and efficiency of the proceedings.
23. As previously indicated by Lead Defence Counsel, the Accused and the Defence team have found themselves in a position where the Accused must present his evidence before his investigations have been completed: a fact completely out of the control of the Defence.<sup>33</sup> This has put the Accused in a position where the Accused's defence is still in a preparatory stage while the Accused is giving evidence. As granted in Article 17(4) (b) of the Statute, the Accused has the basic right to adequate time and facility to prepare for his defence and communication with his counsel.<sup>34</sup> As the cross-examination phase of the Accused's testimony begins, the Defence team is preparing to call subsequent witnesses. Precluding the

<sup>32</sup> *Prlic* Appeal Decision, para 17. The Appeals Chambers states that it is "not persuaded that the reliability of an accused's testimony can only be preserved by prohibiting contact between counsel and the accused." The Appeals Chamber goes on to set forth that "If the Prosecution fears that counsel will subsequently coach the accused in order to tailor his testimony, then it is reminded that under the system in place before this International tribunal it has the opportunity to carefully cross-examine the accused."

<sup>33</sup> *Prosecutor v. Charles Taylor*, Transcript, 8 June 2009, 24249.

<sup>34</sup> Statute of the Special Court for Sierra Leone, Article 17(4)(b).



Accused from communicating with counsel about matters not related to his testimony and regarding the preparation of his defence would violate his rights under Article 17(4) (b).

24. During the proceedings on 10 November 2009, the Prosecution requested that the Defence be held to a twenty-one (21) day notice requirement regarding the identity of the next witnesses that the Defence intends to call. Consequently, the Defence must have access to, and frequent communication with, the Accused in order to complete the defence strategy and comply with the 21-day notification requirement in a timely fashion.
25. The Prosecution has requested that communication with the Accused may only occur upon notification of the subject of the communication and approval by the Prosecution. The time that it would take to request access to the Accused from the Prosecution and possibly resolve disputes before the Trial Chamber would be tedious and time-consuming and affect the efficiency of the Defence preparation and the overall progression of the case. If this procedure is required for every communication needed to provide the Accused with adequate counsel and resources to prepare his defence, the Defence would be incapable of meeting the 21-days notification requirement and this would slow-down the progression of the Defence case immensely.
26. The Prosecution request for notification of the subject-matter of communication between the Accused and counsel offends the rights of the Accused on other levels as well. The Accused has the right to adequately prepare for his defence by communicating with Defence Counsel with the assurance that these communications about preparation are confidential;<sup>35</sup> consequently, the requirement of notification of the subject-matter to be discussed offends the confidentiality of such communication.<sup>36</sup> By requiring the Defence to reveal the subject-matter to be communicated, no matter how general the subject-matter is broached, and requiring permission to commence such communications, the Prosecution is effectively allowed to track the progression and topics of the Defence strategy and use this information in their case strategy.
27. The requirement of notification to the Prosecution goes even farther to offend the rights of the accused by requiring the Accused to give up his right against self incrimination. Article 17(g)

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<sup>35</sup> International Criminal Tribunal of Yugoslavia, Rules of Procedure and Evidence, Rule 97, Lawyer-Client Privilege. This rule guarantees that *all* communication between counsel and client is privileged and is not subject to disclosure at trial unless the client consents or the client has voluntarily disclosed the communication to a third party and the third party then gives evidence of such disclosure (emphasis added). The same is also true of the International Criminal Tribunal of Rwanda, Rules of Procedure and Evidence, Rule 97, Lawyer-Client Privilege.

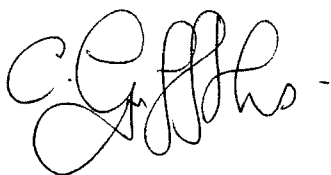
<sup>36</sup> Code of Professional Conduct for Counsel with the Right of Audience Before the Special Court of Sierra Leone, Art. 17(A).

of the Statute of the Special Court of Sierra Leone grants the Accused the right to remain silent, by not compelling the Accused to testify against himself or confess his guilt.<sup>37</sup> The Prosecution's requirement to notification gives the Accused the ultimatum of either giving up his right of access to his Counsel during all stages of proceedings or giving up his right to remain silent and not answer to the Prosecution. There is nothing to prevent the Prosecution from deploying any material obtained as a result of such notification in cross-examination

#### IV. CONCLUSION

28. The Accused maintains that the right to communicate with counsel at any stage of the proceeding (whether while giving evidence during examination-in-chief or cross-examination) is a basic right guaranteed an accused by the Statute. As a witness testifying before the Trial Chamber the rules governing testimony by an accused must be compatible with the basic rights of the Accused. The Prosecution cannot presuppose that both Counsel and the Accused's communications are inappropriate without evidence in support of this belief. Therefore, and without specific evidence of inappropriate communication, the Prosecution cannot move to pre-emptively deny the Accused of his fundamental rights.
29. The Prosecution has the remedy of cross-examining the Accused to test credibility and has the daily safeguard of a caution given to the Accused by the Presiding Judge. Granting the Motion would have the effect of violating the Accused's right of access to communication with Counsel when trial preparation and timeliness is most crucial, while also violating the rights of confidentiality and right against self-incrimination granted by the Statue and Rules.
30. As such, the Prosecution Motion is without merit and should be dismissed in its entirety.

Respectfully Submitted,



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**Courtenay Griffiths, Q.C.**  
**Lead Counsel for Charles G. Taylor**  
Dated this 16th Day of November 2009,  
The Hague, The Netherlands

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<sup>37</sup> The Statute of the Special Court for Sierra Leone, Art. 17(4) (g).

## LIST OF AUTHORITIES

### SCSL

Special Court for Sierra Leone, Rules of Procedure and Evidence, Rule 17(4)(g).  
 Special Court for Sierra Leone, Rules of Procedure and Evidence, Rule 17(4)(b).  
 Code of Professional Conduct for Counsel with the Right of Audience Before the Special Court of Sierra Leone, Art. 17(A).

*Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-T-412, “Decision on Confidential Urgent Joint Defence Motion to Exclude Evidence given by Witness TFI-157 and Evidence to be Given by Witness TFI-158 Based on Lack of Authenticity and Violation of Rule 95,” 10 October 2005

*Prosecutor v. Taylor*, SCSL-03-01-T, “Transcript of Proceedings”, 8 June 2009.

*Prosecutor v. Taylor*, SCSL-03-01-T, “Transcript of Proceedings”, 6 July 2009.

*Prosecutor v. Taylor*, SCSL-03-01-T, “Transcript of Proceedings”, 14 July 2009.

*Prosecutor v. Taylor*, SCSL-03-01-T, “Transcript of Proceedings”, 10 November 2009.

*Prosecutor v. Taylor*, SCSL-03-01-T-777, “Application for Leave to Appeal the 4 May 2009 Oral Decision Requiring the Defence to Commence its Case on 29 June 2009”, 11 May 2009

*Prosecutor v. Taylor*, SCSL-03-01-T-854, “Public Prosecution Motion for an Order Restricting Contact Between the Accused and Defence Counsel during Cross-Examination”, 12 November 2009 (“**Motion**”).

*Prosecutor v. Taylor*, SCSL-03-01-T-808, “Public Prosecution Motion for Prohibiting Contact Between The Accused And Defence Witnesses or Alternative Relief”, 10 July 2009

### ICTY

International Criminal Tribunal of Yugoslavia, Rules of Procedure and Evidence, Rule 97.

*Prosecutor v. Prlic et al.*, IT-04-740AR73.10, “Decision on Prosecution’s Appeal against Trial Chamber’s Order on Contact between the Accused and Counsel during an Accused’s Testimony pursuant to Rule 85(c)”, 5 September 2008. (“**Prlic Appeal Decision**”).

<http://www.icty.org/x/cases/Prlic/acdec/en/080905.pdf>

*Prosecutor v. Prlic et al.*, IT-04-74-T, “Order Clarifying the Relationship between Counsel and an Accused Testifying within the Meaning of Rule 85(C) of the Rules, 11 June 2009.

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*Prosecutor v. Stabislav Galic*, Case No. IT-98-29-A, Judgment, 30 November 2006.

<http://www.icty.org/x/cases/Galic/acjud/en/gal-acjud061130.pdf>

*Prosecutor v. Tadic*, Case No. IT-94-I-T Opinion and Judgment, 7 May 1997.

<http://www.icty.org/x/cases/Tadic/tjug/en/tad-tsj70507JT2-e.pdf>

**International Treaties**

The International Covenant on Civil and Political Rights (ICCPR), Art. 14(3)(b) and (d)



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Court Management Section – Court Records

**CONFIDENTIAL DOCUMENT CERTIFICATE**

This certificate replaces the following confidential document which has been filed in the Confidential Case File.

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Number of Pages **2** Numbers from: **26526-26527**

- Application
- Order
- Indictment
- Response**
- Other
- Correspondence

Document Title:

**PUBLIC WITH CONFIDENTIAL ANNEX A DEFENCE RESPONSE TO THE PUBLIC PROSECUTION MOTION FOR AN ORDER RESTRICTING CONTACT BETWEEN THE ACCUSED AND DEFENCE COUNSEL DURING CROSS-EXAMINATION**

Name of Officer:

Alhassan Fornah

Signed: