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

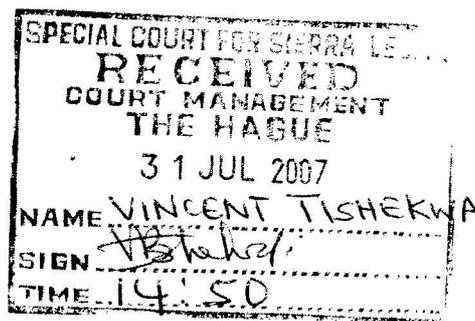
In Trial Chamber II

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

Registrar: Mr. Herman von Hebel

Date: 31 July 2007

Case No.: SCSL-2003-01-T



THE PROSECUTOR

-v-

CHARLES GHANKAY TAYLOR

PUBLIC AND URGENT

**DEFENCE MOTION FOR ADJOURNMENT TO ALLOW THE DEFENCE ADEQUATE
TIME AND FACILITIES TO PREPARE AND OTHER ANCILLARY MATTERS**

Office of the Prosecutor

Ms. Brenda J. Hollis
Ms. Ann Sutherland

Defence Counsel for Charles G. Taylor

Mr. Courtenay Griffiths Q.C.
Mr. Terry Munyard
Mr. Andrew Cayley

I. Introduction

1. By this motion application is respectfully made that Trial Chamber II:
 - a. Pursuant to Rule 54 of the Rules of Procedure and Evidence, adjourn these proceedings until Monday 7th January 2008 in order to allow the newly appointed defence team adequate time and facilities for the preparation of his defence, as required by Article 17 of the Statute of the Special Court for Sierra Leone. It is anticipated that such further time will significantly shorten the trial allowing the parties to agree matters of fact and law which would otherwise be contested;
 - b. If the above application is granted, it is further respectfully submitted that the next hearing in this matter should be moved from the current date of 20th August 2007, to a date in September 2007 convenient to all parties;
 - c. It is further requested, in light of para. 1(a) above, that an extension of time be granted to the defence in which to respond to the seven outstanding Prosecution Motions, including but not limited to the Motion for Judicial Notice and the Prosecution Motion Requesting Special Measures for Disclosure of Rule 70 Material;
 - d. Order an expedited exchange of pleadings and give an expedited decision bearing in mind the forthcoming judicial recess.

II. Procedural Background

2. On 4 June 2007, Charles Taylor terminated instructions to his defence counsel and informed the Registrar of his intention to represent himself. On the same day Trial Chamber II directed the Registrar “to facilitate the Principal Defender to travel to The Hague for the purpose of speaking with Mr Taylor and sorting out his defence problems.” Trial Chamber II further directed the Registrar “...to ensure that logistically the accused has

adequate facilities, in accordance with article 17 of the Statute without further delay.” On 25 June 2007 Trial Chamber II ordered Duty Counsel from the Principal Defender’s Office to represent Charles Taylor.

3. On 25 June 2007 Trial Chamber II adjourned the commencement of the Prosecution case until 3 July 2007. On 28 June 2007 the Prosecutor and the Principal Defender jointly applied to Trial Chamber II to adjourn the commencement of proceedings until 20 August 2007 because Duty Counsel from the Principal Defender’s Office was unable to effectively represent the accused. Two reasons were put forward by Duty Counsel which would amount to a violation of the accused’s rights under article 17(4)(e) of the Statute:
 - a. Duty Counsel had not been privy to the prosecution disclosure, had no administrative support and would be unable to properly cross-examine those prosecution witnesses intended to be called between 3 July and 11 July;
 - b. Duty Counsel knew that the experts whom the Prosecution intended to call between 3 July and 11 July 2007 were challenged by the former defence counsel but was not privy to the reasons why the prosecution experts were challenged.
4. The Trial Chamber accepted that to compel Duty Counsel to represent the accused during the period from 3 July 2007 to 11 July 2007 would amount to a violation of the accused’s rights, as Duty Counsel could not be expected to effectively cross-examine Prosecution witnesses, nor effectively challenge Prosecution evidence. On 28 June 2007 Trial Chamber II further ordered the Registrar to facilitate the Principal Defender to assemble by 31st July 2007 a Defence team for Charles Taylor.
5. On 17 July 2007 Courtenay Griffiths, QC was assigned as Lead Counsel for the defence, Terry Munyard and Andrew Cayley with him as co-counsel in these proceedings, but a Legal Services Contract to that effect is only scheduled to be signed on 1 August 2007;
6. Counsel for the defence jointly first had sight of the files containing the case papers on

Monday 30 July 2007. At the time of writing this motion, 31 July 2007, counsel have had no opportunity to even assess if the materials, now present in the defence offices, constitute the totality of the material disclosed by the prosecution during the period before the current defence team was instructed. No Legal Assistants have yet been appointed to the team, and Lead Counsel has not yet had an opportunity to speak to the National Investigators appointed to the team in order to assess what material and or witnesses may be available to assist the defence.

III. Applicable Law

6. Article 17 of the Statute of the Special Court for Sierra Leone grants certain minimum guarantees to the accused. Of specific relevance to this application are the following:
 - a. Article 17(b): To have adequate time and facilities for the preparation of his or her own defence and to communicate with counsel of his or her own choosing;
 - b. Article 17(e): To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her.

IV. Relief requested

7. New defence counsel in these proceedings cannot reasonably be expected to commence the trial on 20 August 2007, the date to which the proceedings have been adjourned. By that date counsel will have been effectively instructed in this case for three weeks. Given the profile of the accused and the trial, and the period covered by the indictment, unsurprisingly, as the court well appreciates, the papers in the case are voluminous. The papers currently to hand comprise approximately 40,000 pages of witness statements and documents and other items of evidence which have been disclosed by the Prosecution and which must be reviewed by new defence counsel. Experts must be instructed to review the expert evidence relied upon and disclosed by the Prosecution. Further attention must be given to a large quantity of facts in respect of which, by their Motion, the Prosecution

invite the court to take judicial notice. Further instructions must be taken by defence counsel from the accused.

8. We observe in passing, by way of example, that the instruction of experts and decisions as to matters of which the Court may take judicial notice are all predicated upon a detailed and comprehensive understanding and knowledge of all the relevant facts. This is not a situation where elements of the case, for example expert evidence, can be dealt with discretely so as to expedite the re-commencement of the trial. New trial counsel have no knowledge of the factual basis of the case against the Accused and until they are fully apprised of this they could not properly assess the relevance of expert witnesses, or whether they could be agreed by the defence. To embark on this trial without proper time to prepare would be professionally negligent of counsel and a clear breach of the accused's fundamental rights as guaranteed by Article 17.
9. All of the difficulties mentioned above are exacerbated by the fact that the accused is being tried in The Hague through no choice of his own. The logistical problems this necessarily creates in preparing the defence case must be appreciated, particularly when the Prosecution, with far greater resources have had several years in which to prepare their case against him.
10. While the defence appreciate that there are political and economic pressures dictating that these proceedings be moved forward with expedition such pressures should not compromise the fundamental rights of the accused to a fair trial. The appearance of justice is of supremely critical importance in a case which has such a global profile as this and which it is claimed "...will help ensure a future respect for law and the maintenance of a just and peaceful and (sic) safe society."¹
11. The fact is that through no fault of his own, Charles Taylor was denied adequate facilities for the preparation of his defence and terminated the appointment of his original defence counsel. Giving adequate time to the newly appointed defence counsel to prepare the

¹ Prosecution Opening Statement, 4 June 2007.

defence will not only ensure that Charles Taylor's basic rights are respected it will also, we submit, significantly shorten the length of the trial. With proper time to prepare, defence counsel will be able to identify such prosecution evidence which is not challenged and can be agreed by the accused under rule 92 *bis* or admitted under the relevant provisions of Rules 73 *bis* and *ter* of the Rules of Procedure and Evidence. In this way it is intended that the real issues in the case, both factual and legal, will be identified, leaving the court to address solely those matters which are truly in contention. This will not only shorten the time required for trial but will also preserve limited financial resources since, where evidence is agreed, it will not be necessary to transport witnesses from Sierra Leone and then accommodate them in The Hague. It will also save vulnerable witnesses from the emotional trauma of having to testify before the court in a foreign land.

12. Further given the date when counsel for the defence were instructed they will clearly not be in a position to make a meaningful contribution to the hearing scheduled for 20 August 2007. That date is further inconvenient because it falls within a period when all newly appointed counsel are not available. All counsel have necessarily had to re-arrange their diaries to accommodate this late instruction. The Prosecution will also require a reasonable period of time in which to stand down and reschedule their witnesses. It is submitted that the hearing scheduled for 20 August should be put back to a convenient date in early September.
13. Finally the defence will require a reasonable period within which to respond to six of the seven Motions filed by the Prosecution. Six of these motions can only be properly responded to when defence counsel have a proper sense of the evidence in this case. One of these motions requires the review by the defence of nearly two thousand pages of evidential material.² The Prosecution notification of the transmission of disclosure material to the Court Management Section of the Registry in The Hague of 13 June 2007 does not require a response by the Defence.

² Prosecution Motion for Judicial Notice of 14 May 2007 (served in an incomplete fashion on the Defence on 28 May 2007).

14. The accused therefore applies to Trial Chamber II for:

- a. The adjournment of these proceedings until Monday 7th January 2008 in order to allow his new defence counsel adequate time and facilities to prepare his defence;
- b. That a new date be fixed for the next hearing in early September 2007;
- c. That a reasonable period of time be allowed in which to respond to the six outstanding Prosecution Motions.

Dated: 31st July 2007

The Hague.

The Netherlands



Courtenay Griffiths Q.C.
Lead Counsel for Charles
Taylor