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SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

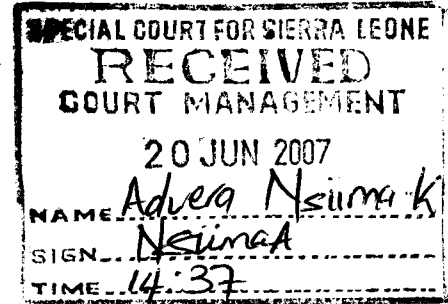
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THE PRESIDENT OF THE SPECIAL COURT

Before: Hon. Justice George Gelaga King, President

Registrar: Mr. Herman von Hebel, Acting Registrar

Date: 20 June 2007



PROSECUTOR

against

Charles Ghankay TAYLOR
(Case No. SCSL-03-01-PT)

PUBLIC

DECISION OF THE PRESIDENT ON DEFENCE APPLICATION PURSUANT TO RULE 47(G) REQUESTING THE PRESIDENT TO REVERSE THE REGISTRAR'S 'DECISION ON THE PROSECUTION REQUEST FOR RESTRICTIONS OR CONDITIONS ON VISITS AND COMMUNICATIONS BY THE ACCUSED, CHARLES GHANKAY TAYLOR'

Office of the Prosecutor

Mr. Stephen Rapp
Ms. Brenda Hollis

Defence Counsel for Charles Ghankay Taylor

Mr. Karim A. A. Khan

THE PRESIDENT of the Special Court for Sierra Leone (“Special Court”), Justice George Gelaga King,

SEISED of the “Public Defence Application Pursuant to Rule 47(G) Requesting the President to Reverse the Registrar’s ‘Decision on the Prosecution Request for Restrictions or Conditions on Visits and Communications by the Accused, Charles Ghankay Taylor’,” filed on 4 June 2007, in which the Applicant submits that:

- (i) “Mr. Taylor has purportedly been found guilty of ‘using its telephone communication to attempt interfering with witnesses’ . . . [and that this] conclusion [was] reached without due process or procedural safeguards . . . [and] is wholly improper . . . [Accordingly] the Registrar clearly exceeded his mandate;”
- (ii) “Mr. Taylor . . . has been completely left in the dark as to the grounds allegedly justifying the restriction on his right to communication and receive visits . . . [and that the] accusations were filed *ex parte*;”
- (iii) “The measures imposed by the [Registrar] are disproportionate.”

NOTING the “Public Prosecution’s Response to Defence Application to the President Pursuant to Rule 47 (G)” attaching two confidential annexes, filed *ex parte*, on 15 June 2007.

NOTING that Rule 47(G) of the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Special Court for Sierra Leone or Otherwise Detained on the Authority of the Special Court for Sierra Leone (“Rules of Detention”) provides that:

“A Detainee may, at any time, request the President to reverse a decision made by the Registrar under this rule.”

NOTING that Rule 47(A) of the Rules of Detention provides that:

“The Registrar, acting on his own initiative or at the request of a Judge, a Chamber or the Prosecutor, may prohibit, regulate or set conditions for communications, including the monitoring of telephone calls, and may prohibit, regulate or set conditions on visits between a Detainee and any other person if there are reasonable grounds for believing that such communications and visits:

- (i) are for the purposes of attempting to arrange the escape of any Detainee from the Detention Facility;
- (ii) could prejudice or otherwise undermine the outcome of the proceedings against the Detainee or any other proceedings;
- (iii) could constitute a danger to the health and safety of any person;
- (iv) could be used by the Detainee to breach an order made by a Judge or a Chamber, or otherwise interfere with the administration of justice or frustrate the mandate of the Special Court; or
- (v) could disturb the maintenance of the security and good order in the Detention Facility.” (*Emphasis added*).

NOTING that Rule 180 of the Regulations of the Registry of the International Criminal Court, applicable pursuant to the Memorandum Of Understanding Between The International Criminal Court And The Special Court Of Sierra Leone, dated 13 April 2006, (“the Regulations”) state that:

“Permission for visits other than those by counsel, diplomatic or consular representatives, representatives of the independent inspecting authority and officers of the Court shall be granted, unless . . . the Registrar or the Chief of Custody Officer has reasonable grounds to believe that

- (a) A detained person may be attempting to:
 - i. Arrange an escape;
 - ii. Interfere with or intimidate a witness;
 - iii. Interfere with the administration of justice; or
 - iv. Otherwise disturb the maintenance of the security and good order of the detention centre.” (*Emphasis added*).

NOTING the Decision of the Acting Registrar issued on 30 May 2007, imposing restrictions and conditions on the communication and visitation rights of the Applicant, Mr. Charles Ghankay Taylor, for a period of 14 days. Specifically, the Acting Registrar decided that:

- i) “Mr. Taylor is entitled to visits with members of his family; members of the Defence Team; an accredited spiritual advisor; Special Court staff; diplomatic or consular representatives; representatives of the independent inspecting authority; and accredited medical staff. All other visits are prohibited. Application for visiting the Accused will continue to be approved by the Special Court Detention Unit.
- ii) All authorised visits, except privileged visits, shall be monitored and audio recorded at the Detention Center of the ICC by a Staff of the Special Court fluent in the language spoken by the Accused.
- iii) Private visits between the Accused and his wife are prohibited.
- iv) Mr. Taylor is entitled to communication through telephone and correspondence with members of his family; members of the Defence Team; an accredited spiritual advisor; Special Court staff; diplomatic or consular representatives; representatives of the independent inspecting authority; and accredited medical staff. All other communications are prohibited.
- v) All authorised communications, except privileged communications – with members of the Defence Team (Counsel, Co-Counsel and Legal Assistants), an accredited spiritual advisor; diplomatic or consular representatives; representatives of the independent inspecting authority and accredited medical staff – shall be recorded and monitored by a Staff of the Special Court fluent in the languages spoken by the Accused.
- vi) Decide that all documents and correspondences of the Accused – with the exception of privileged materials – shall be handed over to an SCSL Staff member for further verification before being given to the Accused.”

NOTING that the aforementioned restrictions and conditions imposed by the Acting Registrar followed allegations made by the Prosecution in a confidential request attaching two confidential annexes filed *ex parte*, on 30 April 2007, that there is:

“reasonable basis to believe that the Accused [Mr. Charles Taylor] is using visits and/or communications:

- a) To plan or orchestrate actions to attempt to identify witnesses against him;

- b) To directly contact individuals to determine if they are witnesses against him; and,
- c) To establish a system of surveillance of homes and movements of persons whom the Accused believes may appear as witnesses in this case.”

NOTING that the information contained in these annexes were not disclosed, in whole or in part, to the Applicant at any stage of the Acting Registrar’s decision making process, but that the gist of the allegation was outlined in the Prosecution’s Request;

NOTING that the Prosecution’s Request, the Defence’s Response and the Decision of the Acting Registrar were, for good reason, submitted confidentially;

NOTING that under Rule 47(A) of the Rules of Detention, the Acting Registrar has power to “prohibit, regulate or set conditions for communications . . . between a Detainee and any other person if there are reasonable grounds for believing that such communications and visits:

. . .

- (iv) could be used by any Detainee to . . . interfere with the administration of justice or frustrate the mandate of the Special Court.”

NOTING that under Rule 180 of the Regulations, the Acting Registrar has power to refuse to grant permission “for visits other than those by counsel, diplomatic or consular representatives, representatives of the independent inspecting authority and officers of the Court” if the Acting Registrar “has reasonable grounds to believe that:

- (a) A detained person may be attempting to:

. . .

- ii. Interfere with or intimidate a witness; [and/or]
- iii. Interfere with the administration of justice.”

RECALLING that the Decision of the Acting Registrar is administrative in nature and not a criminal trial;

FINDING that: (i) The Acting Registrar acted reasonably in not disclosing the confidential annexes to the Applicant; (ii) The Acting Registrar’s conclusion that a redacted version of the

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annexes would still allow a reader to identify the source(s) of the information is justified, (iii) The Acting Registrar having balanced the need for confidentiality on the one hand, and the right of the Applicant to communicate and receive visits on the other, the Acting Registrar's conclusion that the non-disclosure of the source of the information is reasonable;

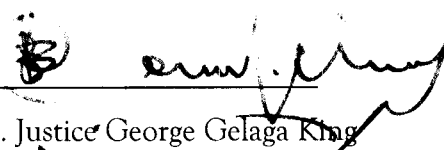
FINDING that the Acting Registrar acting on the basis of information provided in the two confidential annexes, which he found to be credible, rightly concluded on reasonable grounds that the Detainee Charles Taylor has used telephone communications to attempt to identify witnesses against him or interfere with witnesses.

FINDING that in accordance with the provisions of Rule 47(A) of the Rules of Detention and Rule 180 of the Regulations, the Acting Registrar has reasonable grounds for imposing the aforesaid restrictions and conditions.

FOR THE ABOVE REASONS

I **HEREBY REFUSE** to reverse the Acting Registrar's decision and **DISMISS** the Application of the Defence.

Done in Freetown, this 20th Day of June 2007.



Hon. Justice George Gelaga King
President

