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SCSL - 2003 - 01 - I

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(2553 - 2557)

THE SPECIAL COURT FOR SIERRA LEONE
FREETOWN - SIERRA LEONE

IN THE APPEALS CHAMBER

Before: Judge Geoffrey Robertson, QC President
Judge Emmanuel A. Ayoola
Judge Gelaga King
Judge Renate Winter
Judge

Registrar: Mr. Robin Vincent
Date filed: 12th November, 2003

CASE NO. SCSL - 2003-01-PT

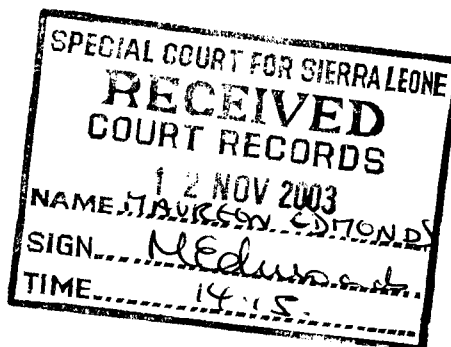
THE PROSECUTOR
Against
CHARLES GHANKAY TAYLOR also known as
CHARLES GHANKAY MACARTHUR DAPKPANA TAYLOR - APPLICANT

FURTHER ATTACHMENT IN CONNECTION WITH ADDITIONAL SUBMISSIONS
FILED ON 12TH NOVEMBER, 2003 WHICH WAS INADVERTENTLY OMITTED.

Office of the Prosecutor:
Mr. David Crane, Prosecutor

Applicant's Counsel
Terence Michael Terry

Mr. Desmond de Silva, QC, Deputy Prosecutor
Mr. Walter Marcus-Jones, Senior Appellate Counsel
Mr. Christopher Staker, Senior Appellate Counsel
Mr. Abdul Tejan-Cole, Appellate Counsel



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You will find here below the overview of current international and hybrid mixed jurisdictions of Tribunals:-

1. Pure International Jurisdictions

International Criminal Court was created in 1998 by the Assembly of States that adopted the Court’s Statute in 1998.

According to the Statute the Judges serving at the International Criminal Court are elected by the Assembly of the States Parties convened for that purpose (the article 36.6.a).

The International Criminal Jurisdiction covers only crimes included in the Court’s Statute (genocide, war crimes against humanity and aggression).

The Tribunal for former Yugoslavia was created by the Security Council Resolutions 808/93 and 827/93.

The Tribunal for Rwanda was also created by the Security Council Resolution (955/94).

Judges for both Tribunals are elected by the United Nations General Assembly. Both Tribunals have their headquarters out of borders of concerned countries.

The article 13 bis of the Statute of the Tribunal for former Yugoslavia, which deals with the judges elections, provides that:

“1. Fourteen of the permanent judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

- (a) The Secretary-General shall invite nominations for judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters.
- (b) Within sixty days of the date of the Invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in article 13 of the Statute, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge who is a member of the Appeals Chamber and who was elected or appointed a judge of the International Criminal Tribunal for the prosecution of persons responsible for genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwanda Citizens responsible for genocide and other such violations committed in the territory of neighbouring States between 1 January 1994 and 31 December 1994 (hereinafter referred to as “The International Tribunal for Rwanda”) in accordance with article 12 of the Statute of that Tribunal.
- (c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-eight and not more than forty-two candidates taking due account of the adequate representation of the principal legal systems of the world.
- (d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect fourteen permanent judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.”

-3-

The article 12 bis of the Statute of the Tribunal for Rwanda contains the same provision with the only difference that it concerns 11 permanent judges.

Either Tribunal for the former Yugoslavia or the Tribunal for Rwanda do not have judges coming from concerned countries that is from Rwanda or from countries issued from the former Yugoslavia.

Both Tribunals apply a international criminal law as created by their Statutes adopted by the Security Council. The Procedure is a genuine international procedure created by Tribunal's judges.

The Tribunal for former Yugoslavia has jurisdiction over crimes of genocide, war crimes, crimes against humanity and grave breaches of Geneva Conventions. The Tribunal for Rwanda has jurisdiction over genocide, crimes against humanity and violations of Article 3 common to the Geneva Conventions and of Additional Protocol II.

The International Criminal Courts and two adhoc Tribunals (for the former Yugoslavia and for Rwanda) are the only pure international jurisdictions. All others are considered as hybrid or mixed jurisdiction, being a mixture of national and international bodies and using elements of national and international law.

II. **HYBRID MIXED JURISDICTIONS**

These hybrid Tribunals are created for:

- Kosovo;
- East Timor;
- Sierra Leone.

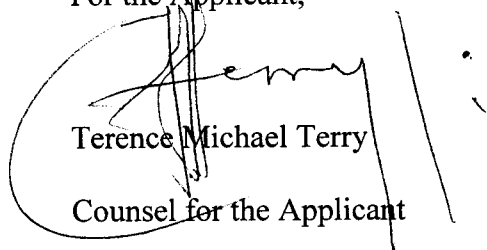
The hybrid Tribunal for Cambodia is in creation.

The Courts in Kosovo are organized by the Interim Administration in Kosovo that is under the jurisdiction of the United Nations Mission for Kosovo (UNMK). These Courts are composed of local judges, but an international Judge or Prosecutor may be appointed. These Courts apply law that was in force in Kosovo prior to 22 March 1989 and international standards of human rights. There is no special Statute for the Kosovo Courts. The most serious violation of humanitarian law committed in Kosovo are tried by the International Criminal Tribunal for former Yugoslavia that has jurisdiction over Kosovo.

The Courts in East Timor are established by the United Nations Transitional Administration in East Timor (UNTAET). They apply the law of East Timor but have their own Rules of Procedure adopted by the UNTAET by the Regulation 200030 on transitional rules of criminal procedure. They have jurisdiction not only in respect of crimes but also in respect of civil claims. The judges are appointed by the Transitional Administrator. Only one of these courts (the District Court in Dili) has a jurisdiction over international criminal offences which are genocide, war crimes, crimes against humanity, murder, sexual offences and torture (article 10.1 of the Regulation on organization of courts in East Timor). This jurisdiction is an exclusive one. For effective exercise of the jurisdiction of the Court in Dili, the Transitional Administrator appointed panels that are composed of both East Timorese and international judges. These courts and Panels have been established as jurisdictions for a period of time until the creation of the International Tribunal for East Timor that was not created up to date.

On 13 May, 2003 the United Nations General Assembly approved the draft agreement concluded between the United Nations and Royal Government of Cambodia concerning Khmer Rouge trials. According to this draft agreement, two extraordinary chambers should be formed in Cambodia in order to judge the committed crimes. Actually, Cambodia adopted in 2001 a law on the establishment of extraordinary chambers in the courts of Cambodia for the prosecution of crimes committed during the period of democratic Kampuchea. These chambers shall be composed of five Judges, three being Cambodian and two being international judges. International Judges shall be appointed by the Cambodian Supreme Council of Magistracy on the proposal of the United Nations Secretary General. The chambers will have jurisdiction over genocide, crimes against humanity and grave breaches of the 1949 Geneva Convention but also homicide, torture and religious persecution. The chambers should follow Cambodian procedure, and only as complement, when the Cambodian law does not contain a specific provision, they may use international standards.

For the Applicant,



Terence Michael Terry
Counsel for the Applicant

12TH NOVEMBER 2003