

1155)

SCSL-03-01-T
(31527 - 31543)

31527



THE SPECIAL COURT FOR SIERRA LEONE

Trial Chamber II

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

Registrar: Ms. Binta Mansaray

Date: 14 January 2011

Case No.: SCSL-03-01-T

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT MANAGEMENT	
THE HAGUE	
14 JAN 2011	
NAME	ALHASSAN FORWATT
SIGN	<i>[Signature]</i>
TIME	16:30

THE PROSECUTOR

-v-

CHARLES GHANKAY TAYLOR

PUBLIC, WITH ANNEX A

**DEFENCE MOTION SEEKING LEAVE TO APPEAL THE DECISION ON
DEFENCE REQUEST FOR A STATUS CONFERENCE PURSUANT TO RULE 65BIS
AND DEFENCE MOTION FOR STAY OF PROCEEDINGS PENDING RESOLUTION
OF OUTSTANDING ISSUES**

Office of the Prosecutor:

Ms. Brenda J. Hollis

Counsel for Charles G. Taylor:

Mr. Courtenay Griffiths, Q.C.
Mr. Terry Munyard
Mr. Morris Anyah
Mr. Silas Chekera
Mr. James Supuwood
Ms. Logan Hambrick, Legal Assistant

I. INTRODUCTION

1. Pursuant to Rule 73(B), the Defence seeks leave to appeal the Trial Chamber's *Decision on Defence Request for a Status Conference pursuant to Rule 65bis and Defence Motion for Stay of Proceedings Pending Resolution of Outstanding Issues*, dated 12 January 2011 ("Motion for Stay of Proceedings").¹
2. In its Decision, the Trial Chamber (sitting in the absence of the Presiding Judge, Justice Julia Sebutinde²) denied three inter-related requests by the Defence: i) a request for a stay of proceedings given the significant outstanding decisions relating to matters of fundamental importance;³ ii) an alternative request for an extension of time for the parties to file their final briefs;⁴ and iii) a request for a Status Conference pursuant to Rule 65bis.⁵ The Trial Chamber's swift and conclusory denial of the Defence's requests for relief gives short shrift to the fundamental and important nature of the requests. This amounts to exceptional circumstances and results in irreparable prejudice to the Defence.
3. Specifically, the Trial Chamber committed several procedural errors and/or errors of law and/or fact including a failure to properly consider and/or give due weight to several factors, in that:
 - a. The unresolved issues in the outstanding Motions go to matters of fundamental importance affecting the integrity of the trial and the prosecution of the Accused. The Defence recalls that its Motion for Stay of Proceedings was predicated on the resolution of the outstanding Motions before the

¹ *Prosecutor v. Taylor*, SCSL-03-01-T-1154, Decision on Defence Request for a Status Conference pursuant to Rule 65bis and Defence Motion for Stay of Proceedings Pending Resolution of Outstanding Issues, 12 January 2011 ("**Decision**").

² The Decision was reached by Justice Doherty and Justice Lussick, to the exclusion of Justice Sebutinde. The Trial Chamber has permission to sit in her absence pursuant to *Prosecutor v. Taylor*, SCSL-03-01-T-1139, Order under Rule 16 to Continue Trial in the Absence of a Judge, 16 December 2010.

³ *Prosecutor v. Taylor*, SCSL-03-01-T-1144, Urgent and Public Motion for stay of Proceedings Pending Resolution of Outstanding Issues, 10 January 2011 ("**Motion for Stay of Proceedings**").

⁴ Motion for Stay.

⁵ *Prosecutor v. Taylor*, SCSL-03-01-T-1145, Urgent and Public Defence Request for a Status Conference Pursuant to Rule 65bis, 10 January 2011 ("**Request for Status Conference**").

Appeals Chamber and the Trial Chamber. A proper consideration of the Defence Motion for Stay of Proceeding was therefore, in part, dependant on a consideration of the outstanding Motions before the Trial Chamber. There is however nothing in the Trial Chamber's decision to indicate the court gave due consideration to the critical legal issues engaged in those outstanding Motions. The Trial Chamber merely "Noted" those filings.⁶ The Trial Chamber therefore failed to properly take into account all the facts before it in dismissing the Defence Motion for Stay of Proceedings. Furthermore, it is an established principle that the right to be heard also entails decisional transparency manifested through a reasoned decision addressing all the relevant issues raised by the parties. The Trial Chamber also erred in this respect.

- b. Had the Trial Chamber considered the Motion for Stay in conjunction with the other outstanding Motions before it, as well as the Motion pending before the Appeals Chamber, it would not have come to the decision it arrived at. The issues raised in those Motions cannot be properly addressed in isolation and after the fact, but must rather form an integral and underlying basis for all of the arguments in the Defence's final brief;
- c. Furthermore, the Trial Chamber did not consider the Defence's alternative request for an extension of time at all, as there is no indication in the Trial Chamber's Decision of what legal standard it applied or what factors into took into consideration in denying the request, save for a sweeping statement that an extension was not necessary. The also constitutes an error for the same legal reasons set out at paragraph (a) above.
- d. Indeed the extension of time sought by the Defence was reasonable, and was necessary not due to any lack of diligence on the part of the Defence but because of unforeseen intervening events which required the Defence to invest time and effort in trial related matters other than the preparation of the final trial brief, in order to pursue the best interests of the Accused;

⁶ Decision, p.3 para.

- e. In addition, whereas the Trial Chamber notes that “several of the motions involve issues that arose after the time limit expired on 24 September 2010”, in our submission all matters raised in outstanding motions and appeals have arisen *ex improviso* and the trial Chamber failed to give any or any proper weight to this significant fact;
- f. Furthermore, The Trial Chamber erred in holding that the Defence should have asked the Appeals Chamber for a stay of proceedings when the Defence filed its two notices of appeal. The Defence submits that the Trial Chamber was properly seized of the application for stay pursuant to Rule 54 of the Rules as the authority having control over the conduct of the trial, and there is no contrary provision giving the Appeals Chamber this power;
- g. Indeed, this decision (that the Defence should have applied for stay at the time it filed its two notices of appeal) also shows that the Trial Chamber misunderstood the basis upon which the Motion for Stay of Proceeding was premised. The Trial Chamber narrowly focused on outstanding Appeals to the exclusion of the outstanding Motions before it, upon which the Motion for Stay of Proceedings was also predicated. These Motions, it might also be noted, were filed after the two notices of appeal the Trial Chamber refers to. Again, this shows that the Trial Chamber failed to properly apply itself to all the facts before it in dismissing the Defence Motion for Stay of Proceedings.
- h. Further, the Trial Chamber erred in its reading of the application and import of Rule 73(C): While Rule 73(C) may not be directly applicable to the present case, the Appeals and the Trial Chamber are however imminently to be seized of similar issues. Indeed Rule 73(3) does not purport to apply strictly and only to a situation where a case before the Trial Chamber falls on all fours with that before the Appeals Chamber. The Rule applies where the Trial Chamber and the Appeals Chamber of the Court are seized of the same Motion *raising the same or similar issue or issues*. By parity of reasoning, if a case before the Appeals Chamber directly impacts on issues engaged before the Trial Chamber, it behooves the Trial Chamber to stay of proceedings pending resolution of the matter by the Appeal Chamber.

4. The Defence submits that all the foregoing errors invalidate the Trial Chamber's Decision. Had the Trial Chamber properly applied itself to all the issues before, it would not have come to the decision to dismiss the Motion for Stay of Proceeding. Indeed, no reasonably arbiter properly applying themselves to all the factual and legal issues that were before the Trial Chamber would have come to that conclusion.
5. In view of the gravity of the issues engaged in the outstanding Motions and their centrality to the Defence case; and considering the implications of the Trial Chamber's dismissal of the Defence Motion for Stay of proceedings, as argued in more detail below, the Defence further requests an order that this motion seeking leave to appeal shall operate as a stay of proceedings pending appeal.

II. APPLICABLE LAW

6. Rule 73(B) sets out the legal standard for leave to appeal: It provides that:

“Decisions rendered on such motions [brought by either party for appropriate ruling or relief after the initial appearance of the accused] are without interlocutory appeal. However in exceptional circumstances and to avoid irreparable prejudice to a party, the Trial Chamber may give leave to appeal. Such leave should be sought within 3 days of the decision and shall not operate as a stay of proceedings unless the Trial Chamber so orders.”
7. Rule 73(B) is a restrictive provision⁷ and an interlocutory appeal does not lie as of right. The rationale behind this rule is that criminal trials must not be heavily encumbered and consequently unduly delayed by interlocutory appeals.⁸ The party seeking leave to appeal must meet the conjunctive conditions of “exceptional circumstances” and “irreparable prejudice” before the Trial Chamber can exercise its discretion; this is a “high threshold”.⁹

⁷ *Prosecutor v. Sesay et al.*, SCSL-2004-15-PT, Decision on the Prosecutor's Application for Leave to File an Interlocutory Appeal against the Decision on the Prosecution Motion for Joinder, 13 February 2004, para. 11.

⁸ *Id.*

⁹ *Id.*, para. 10.

8. There is no comprehensive or exhaustive definition of “exceptional circumstances” as the “notion is one that does not lend itself to a fixed meaning [and it cannot be] plausibly maintained that the categories of ‘exceptional circumstances’ are closed or fixed”.¹⁰ Exceptional circumstances will depend on the circumstances of each case. Instances may include where for instance the question is one of general principle to be decided for the first time; where the interests of justice *might* be interfered with (there is no requirement to prove that such interference *will* definitely arise); where further decision is conducive to the interests of justice; or where the question is of fundamental legal importance.¹¹
9. Irreparable prejudice arises where the Trial Chamber’s decision is not remediable on final appeal. The Appeals Chamber has noted that although most decisions will be capable of disposal at final appeal “the underlying rationale for allowing such appeals is that certain matters cannot be cured or resolved by final appeal against judgment”.¹²

III. SUBMISSIONS

Exceptional Circumstances

10. The Defence cannot overstate the significance of the pending decisions which formed the basis of the Defence’s Motion for Stay of Proceedings.¹³ These decisions include matters relating to: the influence of the United States Government on the Trial Chamber, the Registry and the Prosecution;¹⁴ the re-opening of the Defence case in

¹⁰ *Prosecutor v. Sesay et al.*, SCSL-2004-15-T-357, Decision on Defence Applications for Leave to Appeal Ruling of 3 February 2005 on the Exclusion of Statements of Witness TF1-141, 28 April 2005, para. 21.

¹¹ *Id.*, para. 26.

¹² *Prosecutor v. Norman et al.*, SCSL-04-14-T-669, Decision on Prosecution Appeal against Trial Chamber Decision of 2 August 2004 Refusing Leave to File an Interlocutory Appeal, 17 January 2005, para 29.

¹³ Motion for Stay, paras. 4-5 and 20-23.

¹⁴ *Prosecutor v. Taylor*, SCSL-03-01-T-1143, Urgent and Public with Annexes A-N Defence Motion for Disclosure and/or Investigation of United States Government Sources within the Trial Chamber, the Prosecution and the Registry, Based Leaked USG Cables, 10 January 2011 (“**U.S. Government Sources Motion**”).

order to admit evidence of such influence;¹⁵ re-calling four Prosecution witnesses with respect to allegations of relocation being promised as an inducement for their testimony;¹⁶ allegations of contemptuous conduct relating to Prosecution investigations which undermine the integrity of the proceedings;¹⁷ and the admission of exculpatory evidence stemming from a disclosure violation by the Prosecution.¹⁸

11. The outstanding cases, in particular the U.S. Government Sources Motion pending before the Trial Chamber and the Contempt Motion pending before the Appeals Chamber, raise issues of fundamental importance that go directly to the integrity the entire proceedings. The U.S. Government Sources Motion questions the independence of the Trial Chamber, the Prosecution and the Registry. That Motion, it will be recalled, on the basis of the Wikileaks reports, alleges that there is evidence that there are persons in all three organs of the Court who have been in communication with the U.S. Government outside the official lines of communication, and consequently calls for an investigation into the matter. This is particularly disturbing, as the Defence underlined in that Motion, given the USG's stated position that Charles Taylor must be convicted and kept out of Liberia by all means.¹⁹
12. The Defence respectfully submits that until this is resolved through a proper investigation, there is no way of knowing the identity of the source in Chambers and/or Prosecution interacting with the US government and the extent of their interaction the USG. This is especially disturbing in the case of the Trial Chamber

¹⁵ *Prosecutor v. Taylor*, SCSL-03-01-T-1146, Urgent and Public with annexes A-C Defence Motion to Re-Open its Case in Order to Seek Admission of Documents Relating to the Relationship between the United States Government and the Prosecution of Charles Taylor, 10 January 2011 (“**Motion to Re-Open**”).

¹⁶ *Prosecutor v. Taylor*, SCSL-03-01-T-1142, Defence Motion to Recall Four Prosecution Witnesses and to Hear Evidence from the Chief of WVS Regarding Relocation of Prosecution Witnesses, 17 December 2010 (“**Recall Motion**”).

¹⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-1134, Notice of Appeal and Submissions Regarding the Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 10 December 2010 (“**Contempt Appeal**”).

¹⁸ Notice of Appeal and Submissions Regarding the Decision on the Defence Motion for Admission of Documents and Drawing of an Adverse Inference Relating to the Alleged Death of Johnny Paul Koroma, 10 December 2010 (“**JPK Appeal**”).

¹⁹ U.S. Government Sources Motion, paras. 1, 7, 19-20 and Annex A.

where, until an investigation is conducted and finds otherwise, one could reasonably suspect any member of Chambers, from the Judges themselves to the officers of the court. Such is the importance of the allegations that they impact on the independence and impartiality of the Trial Chamber – the same Trial Chamber which denied the Defence’s request for a stay of proceedings and to whom the Defence’s most important legal document in the entire trial, the Final Brief, is now due.

13. In this regard, the Defence submits that the allegations in the leaked cables²⁰ cannot be taken lightly; nor could their veracity be overlooked. As argued previously, the U.S. Government essentially validated the allegations through its reported apology to the Government of Liberia.²¹ Furthermore, as far as this Court is concerned, there has been no official repudiation of the allegations that members of the court have been in communication with the U.S. Government outside the official lines of communication. The only sign of how seriously some members of this Court have taken the matter is through the personal response by Justice Sebutinde to the allegations in one of the cables which impinge on her integrity as a Judge, as reported in the media.²²
14. While admittedly, this response was made in a personal capacity, the underlying principle is however the same. The response validates the assumed veracity of the leaked cables and underscores the seriousness of the matter and the need for clarification. The U.S. Government Sources Motion therefore raises an issue of fundamental legal importance that goes to the heart of this case in so far as it potentially impacts on the independence and integrity of the Trial Chamber, and indeed the entire proceedings, constitutes an abuse of process. Consequently, it is not an issue that could be deferred to some indeterminate date after the Trial Brief, to be dealt with through supplemental submissions or some other ancillary Motion.

²⁰ U.S. Government Sources Motion, Annexes A and B.

²¹ U.S. Government Sources Motion, Annex C.

²² The Daily Monitor, “Sebutinde delaying Taylor trial says US diplomat”, 20 December 2010, available at: <http://www.monitor.co.ug/News/National/-/688334/1075434/-/cjsx10fz/-/> [Annex A]

15. The Defence submits that the question whether a party to legal proceedings who raises fundamental issues that impacts on the independence of a Trial Chamber and its ability to render an impartial decision should be expected to submit before that very same Trial Chamber its Final Trial Brief, which is indeed the final and most crucial stage in the trial process, before the fundamental issues going to the court's independence and impartiality are not resolved, raises an issue of fundamental legal importance. It offends all popularly understood principles of natural justice.
16. The U.S. Government Sources Motion as well as the outstanding matter of contempt also raises issues of fundamental importance going to the heart of this case, with respect to the Prosecution. Both motions call into question the independence and integrity of the Prosecution in the prosecution of the Accused. Indeed, in granting certification of the contempt motion, the Trial Chamber held that the allegations of contempt "have serious implications on the integrity of the Office of the Prosecutor that may ultimately affect the integrity and/or fairness of these proceedings".²³ Consequently, the Defence submits that these issues are not the sort that could be deferred to some indeterminate date, to be dealt with through supplemental submissions or some other ancillary Motion. The issues at stake have the potential of permanently staying proceedings in this case. Therefore they are issues of fundamental legal importance that elevate to exceptional circumstances.
17. Furthermore, for the same reasons that the Trial Chamber found exceptional circumstances (and irreparable prejudice) in certifying the Contempt Appeal; to the extent that the present Motion is in part predicated on the same or similar issues to those implicated therein, the Trial Chamber should also find exceptional circumstances in this instance.
18. The Defence further submits that the issues engaged in pending Motion, especially the U.S. Government Sources Motion and the Contempt Motion have the potential to

²³ *Prosecutor v. Taylor*, SCSL-03-01-T-1130, Decision on Defence Motion Seeking Leave to Appeal the Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 3 December 2010, p. 5.

give rise to an application for mistrial. In the circumstances, the Trial Chambers decision on the Defence Motion for Stay, to the extent that it now effectively compels the Defence to file its final brief while such egregious allegations going to the integrity of the proceedings are pending, amounts to an interference with the proper administration of justice.

19. The Defence recalls that the Trial Chamber previously granted the Defence leave to appeal the date chosen by the Trial Chamber for the start of the Defence case.²⁴ In that Certification, the Trial Chamber recognized that the following issues, *taken together*, constituted exceptional circumstances: Defence allegations that the Trial Chamber abused its discretion in choosing an appropriate start date for the Defence case; the peculiar logistical issues facing a party working away from the seat of the Court; and that a final determination regarding the common purpose of the alleged joint criminal enterprise, an issue vital to the case, was only recently issued.²⁵ The Defence submits that the present Motion practically implicates similar issues, which taken together; on the basis of the Trial Chamber's reasoning above, also give rise to exceptional circumstances.

20. The Defence submits that the foregoing errors of law and/or fact individually and collectively, amount to exceptional circumstances in that: the interests of justice *might* be interfered with; and/or because further decision is conducive to the interests of justice; and/or because the case raises a question of fundamental legal importance.

Irreparable Prejudice

21. The outstanding issues as listed above at paragraph 9, upon which the Defence's Motion for Stay was based, impact on the integrity of the entire case and indeed the entire judicial process.

²⁴ *Prosecutor v. Taylor*, SCSL-03-01-T-783, Decision on Defence Application for Leave to Appeal the 4 May 2009 Oral Decision Requiring the Defence to Commence its Case on 29 June 2009, 28 May 2009 (“**Certification of Start Date**”).

²⁵ Certification of Start Date, p. 4.

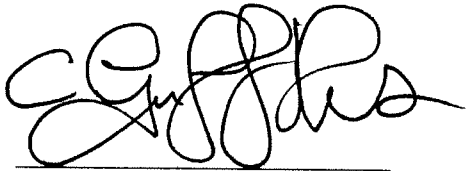
22. These allegations, individually and collectively, raise fundamental issues that, as argued above under exceptional circumstances, even have the potential of permanently staying the proceedings. These are therefore issues of such importance that they cannot wait to be dealt with in isolated and ancillary supplemental filings. The final brief cannot be looked at in a vacuum isolated from such fundamental issues.
23. Even the evidential issues implicated in the Motions are not such that they could be dealt with in supplemental filings. If the evidential issues in the outstanding Motions are validated, they are of such importance that they cut across the entire case. Short of filing the Final Briefs *de novo*, they could not properly be addressed through supplemental filings.
24. In any event, with respect to the limited request for an extension of time, which was erroneously dismissed by the Trial Chamber as argued above, that question can not be addressed post the appeal brief. The Defence therefore will suffer irreparable prejudice in that the Chamber failed to properly consider its well-founded request for an extension.
25. The Defence recalls that this Trial Chamber has previously found that the setting of a premature date relating to the start of the Defence case could not be remedied at the appeals stage of proceedings and could therefore cause irreparable prejudice to the Accused.²⁶ Likewise, matters relating to the filing deadline for the submission of the final briefs cannot be remedied on final appeal. If the Defence were to file an incomplete or non-comprehensive final brief, which could not forcefully and holistically argue many core aspects of the Defence case, the Accused would be irreparably prejudiced.

²⁶ Certification of Start Date, p. 4.

IV. CONCLUSION AND RELIEF REQUESTED

26. For the same reasons argued above – that the matters at bar raise issues of fundamental legal and procedural importance – the Defence requests a stay of proceedings until this request for leave to appeal is determined. This Motion meets the conjunctive requirements for leave to appeal and thus leave should be granted.

Respectfully Submitted,



Courtenay Griffiths, Q.C.
Lead Counsel for Charles G. Taylor
Dated this 14th Day of January 2011,
The Hague, The Netherlands

Table of Authorities

Prosecutor v. Taylor

Prosecutor v. Taylor, SCSL-03-01-T-1154, Decision on Defence Request for a Status Conference pursuant to Rule 65bis and Defence Motion for Stay of Proceedings Pending Resolution of Outstanding Issues, 12 January 2011

Prosecutor v. Taylor, SCSL-03-01-T-1146, Urgent and Public with annexes A-C Defence Motion to Re-Open its Case in Order to Seek Admission of Documents Relating to the Relationship between the United States Government and the Prosecution of Charles Taylor, 10 January 2011

Prosecutor v. Taylor, SCSL-03-01-T-1145, Urgent and Public Defence Request for a Status Conference Pursuant to Rule 65bis, 10 January 2011

Prosecutor v. Taylor, SCSL-03-01-T-1144, Urgent and Public Motion for stay of Proceedings Pending Resolution of Outstanding Issues, 10 January 2011

Prosecutor v. Taylor, SCSL-03-01-T-1143, Urgent and Public with Annexes A-N Defence Motion for Disclosure and/or Investigation of United States Government Sources within the Trial Chamber, the Prosecution and the Registry, Based Leaked USG Cables, 10 January 2011

Prosecutor v. Taylor, SCSL-03-01-T-1142, Defence Motion to Recall Four Prosecution Witnesses and to Hear Evidence from the Chief of WVS Regarding Relocation of Prosecution Witnesses, 17 December 2010

Prosecutor v. Taylor, SCSL-03-01-T-1139, Order under Rule 16 to Continue Trial in the Absence of a Judge, 16 December 2010

Prosecutor v. Taylor, SCSL-03-01-T-1134, Notice of Appeal and Submissions Regarding the Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 10 December 2010

Prosecutor v. Taylor, SCSL-03-01-T-1133, Notice of Appeal and Submissions Regarding the Decision on the Defence Motion for Admission of Documents and Drawing of an Adverse Inference Relating to the Alleged Death of Johnny Paul Koroma, 10 December 2010

Prosecutor v. Taylor, SCSL-03-01-T-783, Decision on Defence Application for Leave to Appeal the 4 May 2009 Oral Decision Requiring the Defence to Commence its Case on 29 June 2009, 28 May 2009

Other SCSL Cases

Prosecutor v. Norman et al., SCSL-04-14-T-669, Decision on Prosecution Appeal against Trial Chamber Decision of 2 August 2004 Refusing Leave to File an Interlocutory Appeal, 17 January 2005

Prosecutor v. Sesay et al., SCSL-2004-15-PT, Decision on the Prosecutor's Application for Leave to File an Interlocutory Appeal against the Decision on the Prosecution Motion for Joinder, 13 February 2004

Prosecutor v. Sesay et al., SCSL-2004-15-T-357, Decision on Defence Applications for Leave to Appeal Ruling of 3 February 2005 on the Exclusion of Statements of Witness TF1-141, 28 April 2005

Annex A

31542

DAILY MONITOR

TRUTH EVERY DAY

-URL: /691150/691150-b5cp13/index.html-

State
November 09, 2011

NATIONAL

Sebutinde delaying Taylor trial, says US diplomat

By Tabu Butagira (email the author <URL: javascript:void(0);>
Posted Monday, December 20 2010 at 00:00

Kampala

A senior Ugandan judge has been accused by an American diplomat of delaying the ongoing trial of former Liberian President, Charles Taylor, in the Netherlands, and questioned her motive for slowing down the prosecution.

Justice Julia Sebutinde, speaking to this newspaper by phone yesterday, however, said the allegation contained in a diplomatic cable released by Julian Assange's whistleblower website, WikiLeaks, manifest "ignorance and racism" on the part of the author.

The April 15, 2009, dispatch from one Gallagher and classified by Denise Manning, the legal counsellor at the American embassy in the Netherlands, summarises the UN Special Court for Sierra Leone's milestones, including "uncertainty in terms of timing, finances, and (trial) completion".

The diplomat, reportedly drawing from accounts offered by a contact at the court, wrote in the confidential report to Washington that "the Trial Chamber could have accelerated the court's work by excluding extraneous material and arguments".

"Moreover, contacts in Prosecution and Registry speculate that Justice [Julia] Sebutinde may have a timing agenda," the memo reads in part. "They think she, as the only African judge, wants to hold the gavel as presiding judge when the Trial Chamber announces the Taylor judgment."

The document says the delay is messing timing predictions yet the Court Registrar's budget showed the trial should have been concluded by October last year; judgment and sentencing expedited in April 2010, with October set as deadline for handling any appeal.

In yesterday's interview, Justice Sebutinde said the allegations against her are "odd and factually incorrect" since her colleague Richard Lussick, a Samoan, was the presiding Judge in 2009 when the memo was originated. "It's unjustified and I have no idea what the motivation (of the author) could be other than racism," she said, "Perhaps, since I am the only African Judge, some of these racists think it is easier to target the black one."

Together with Northern Ireland's Teresa Doherty, The Hague-based special court has three full-time judges. Senegalese Justice El Hadji Malick, designated as an alternate fourth judge, has no voting power and can, therefore, not practically influence the court's decision.

Justice Sebutinde, who took over as the court's rotational presiding judge on January 18, this year, said she is baffled by how she came to be singled out for attack for slowing Mr Taylor's trial yet "we take decisions on majority basis".

She said: "As a (trial) chamber, we are trying to run the trial in a fair and expeditious manner with due regard to fairness to both sides (prosecution and defence) and without bending to external pressures like those [contained in the diplomatic cable]."

It has emerged that the US, partly concerned about shrinking financing for the court, has quietly been nudging for a speedy conviction of Mr Taylor, 62. He is in the dock over eleven counts of unlawful killings, sexual violence, abductions and forced labour, conscripting child soldiers and terrorising civilians.

The war crimes, according to prosecution, were committed when Mr Taylor, a former warlord, backed the Revolutionary United Front rebel group in the neighbouring Sierra Leone.

An additional month for the court costs international financiers at least \$1 million (Shs2.3b), according to details in the diplomatic cable. Justice Sebutinde suggested that Washington may be nery that as an African, she may return favourable judgment for the former Liberian President. "My integrity speaks for itself," said the Lady Justice, remembered in Uganda for her no-nonsense handling of two separate inquiries into corruption in the country's police force and revenue body.

"I did not do such a thing [of delivering manipulated verdict] while a national judge, and why would I do so while in a high-profile position?" she asked. Her current one-year tenure as presiding judge at the court ends on January 17, 2011, and she will hand over to Justice Doherty.

Mr Taylor, former leader of the National Patriotic Front of Liberia, was indicted in 2003, for allegedly arming and training Sierra Leone rebels. He is also accused of trafficking blood diamonds that fuelled and financed the fighting. He denies all the charges.