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UNITED NATIONS JURIDICAL YEARBOOK

2003

Part Three. Judicial decisions on questions relating to the United Nations and related
intergovernmental organizations

Chapter VII. Decisions and advisory opinions of international tribunals



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Chapter VII

DECISIONS AND ADVISORY OPINIONS OF INTERNATIONAL TRIBUNALS

A. International Tribunal for the Law of the Sea

The International Tribunal for the Law of the Sea is an independent permanent tribunal established by the United Nations Convention on the Law of the Sea, 1982.¹

PENDING CASES, JUDGEMENTS AND ORDERS IN 2003

CASE NO. 7 (PENDING CASE)—CASE CONCERNING THE CONSERVATION AND SUSTAINABLE EXPLOITATION OF SWORDFISH STOCKS IN THE SOUTH-EASTERN PACIFIC OCEAN (CHILE/EUROPEAN COMMUNITY)

By a request of the Parties, the President of the Special Chamber extended the time limit for making preliminary objections until 1 January 2006, by Order dated 16 December 2003.

CASE NO. 12—CASE CONCERNING LAND RECLAMATION BY SINGAPORE IN AND AROUND THE STRAITS OF JOHOR (MALAYSIA V. SINGAPORE) REQUEST FOR PROVISIONAL MEASURES

Land reclamation—Request for provisional measures under article 290 paragraph 5, UNCLOS—Article 283 obligation to exchange views—Existence of an agreement under article 281 to seek settlement of the dispute by peaceful means—Assessment of the urgency of the need for provisional measures under article 290—Existence of a claim to an area of territorial sea not per se a sufficient basis for provisional measures—Protection of rights arising from duty of cooperation in prevention of pollution

On 5 September 2003, Malaysia filed a Request for the prescription of provisional measures against Singapore under article 290, paragraph 5, of the United Nations Convention on the Law of the Sea (UNCLOS), 1982, pending the constitution of an arbitral tribunal under annex VII to the Convention, in a dispute concerning land reclamation by Singapore in and around the Straits of Johor.

Malaysia sought the prescription of the following provisional measures:

1. that Singapore should, pending the decision of the arbitral tribunal, suspend all current land reclamation activities in the vicinity of the maritime boundary between the two States or of areas claimed as territorial waters by Malaysia (and specifically around Pulau Tekong and Tuas);
2. to the extent it has not already done so, provide Malaysia with full information as to the current and projected works, including in particular their proposed extent, their

¹ As at 31 December 2003, there were 145 parties to the Convention. For the text of the Convention and the Statute of the Tribunal, see United Nations *Treaty Series*, vol. 1833, p. 3.

method of construction, the origin and kind of materials used, and designs for coastal protection and remediation (if any);

3. afford Malaysia a full opportunity to comment upon the works and their potential impacts having regard, *inter alia*, to the information provided; and
4. agree to negotiate with Malaysia concerning any remaining unresolved issues.

Singapore requested that the Tribunal:

1. dismiss Malaysia's request for provisional measures; and
2. order Malaysia to bear the costs incurred by Singapore in these proceedings.

The Order of 8 October 2003

The Tribunal first addressed the issue of whether the annex VII arbitral tribunal would *prima facie* have jurisdiction over the dispute. With respect to the obligation to exchange views set out in article 283 of UNCLOS, the Tribunal considered that the obligation had been satisfied as Malaysia was not obliged to continue with an exchange of views after had it concluded that this exchange could not yield a positive result. Singapore then argued that, by agreeing to meet on 13 and 14 August 2003 the parties had, for the purposes of article 281, agreed to seek settlement of the dispute by a peaceful means (namely negotiation) and Malaysia was therefore unable to seek provisional measures. The Tribunal noted that the meeting took place after the institution of arbitral proceedings and that Malaysia had expressly stated that such meetings would be without prejudice to its right to proceed with the arbitration pursuant to annex VII to UNCLOS or to request the Tribunal to prescribe provisional measures. Article 281 was therefore not applicable. The Tribunal found that the annex VII arbitral tribunal would *prima facie* have jurisdiction over the dispute. The Tribunal also found that the case was admissible under ITLOS Rules.

The Tribunal noted that, under article 290, paragraph 5, of UNCLOS, the Tribunal is competent to prescribe provisional measures prior to the constitution of the annex VII arbitral tribunal if the urgency of the situation so requires. Singapore contended that, as the annex VII arbitral tribunal was to be constituted by no later than 9 October 2003, there was no need to prescribe provisional measures given the short period of time remaining before that date. The Tribunal noted that there is nothing in article 290 of the Convention to suggest that the measures prescribed by the Tribunal must be confined to that period and further considered that the urgency of the situation must be assessed by taking into account the period during which the annex VII arbitral tribunal is not yet in a position to modify, revoke or affirm the provisional measures.

With respect to the request for provisional measures relating to the land reclamation works in the sector of Tuas, the Tribunal considered that the existence of a claim to an area of territorial sea is not, *per se*, a sufficient basis for the prescription of provisional measures.

The Tribunal found that Malaysia had not shown that there was a situation of urgency or that there was a risk that its rights with respect to an area of its territorial sea would suffer irreversible damage pending consideration of the merits of the case by the annex VII arbitral tribunal. Accordingly, the Tribunal did not consider it appropriate to prescribe provisional measures with respect to the land reclamation by Singapore in the sector of Tuas.

The Tribunal went on to consider Malaysia's Request for the remaining provisional measures. It was noted that during the oral proceedings, Singapore, in response to the measures requested by Malaysia, reiterated its offer to share the information requested by Malaysia with respect to the reclamation works, stated that it would provide Malaysia with a full opportunity to comment on the reclamation works and their potential impact, and declared that it was ready and willing to enter into negotiations. The Tribunal placed on record these assurances given by Singapore.

With respect to the infilling work in Area D at Pulau Tekong, which was of primary concern to Malaysia, the Tribunal noted the commitment made by Singapore at the hearing not to undertake any irreversible action to construct the stone revetment around Area D pending the completion of a study, jointly sponsored and funded by both States, to be undertaken by independent experts.

The Tribunal stated that the duty to cooperate is a fundamental principle in the prevention of pollution of the marine environment under Part XII of UNCLOS and general international law, and that there are rights which arise therefrom which the Tribunal may consider appropriate to preserve under article 290 of UNCLOS (citing *The MOX Plant Case*, Order of 3 December 2001).² The Tribunal further stated that the record of the case showed that there was insufficient cooperation between the parties up to the submission of the Statement of Claim by Malaysia on 4 July 2003.

The Tribunal considered that, given the possible implications of land reclamation on the marine environment in and around the Straits of Johor, prudence and caution required Malaysia and Singapore to establish mechanisms for exchanging information on and assessing the risks or effects of the land reclamation works and devising ways to deal with them.

For these reasons, the Tribunal, unanimously, prescribed the following provisional measures under article 290, paragraph 5, of UNCLOS, pending a decision by the annex VII arbitral tribunal:

“Malaysia and Singapore shall cooperate and shall, for this purpose, enter into consultations forthwith in order to:

- (a) establish promptly a group of independent experts with the mandate
 - (i) to conduct a study, on terms of reference to be agreed by Malaysia and Singapore, to determine, within a period not exceeding one year from the date of this Order, the effects of Singapore's land reclamation and to propose, as appropriate, measures to deal with any adverse effects of such land reclamation;
 - (ii) to prepare, as soon as possible, an interim report on the subject of infilling works in Area D at Pulau Tekong;
- (b) exchange, on a regular basis, information on, and assess risks or effects of, Singapore's land reclamation works;

² Arbitral tribunal constituted pursuant to article 287, and article 1 of annex VII, of UNCLOS for the dispute concerning the MOX Plant, international movements of radioactive materials, and the protection of the marine environment of the Irish sea (*Ireland v. United Kingdom*). The Order is available on the website <http://www.pca-cpa.org>. The International Bureau of the Permanent Court of Arbitration is serving as registry in the proceedings.

(c) implement the commitments noted in this Order and avoid any action incompatible with their effective implementation, and, without prejudice to their positions on any issue before the annex VII arbitral tribunal, consult with a view to reaching a prompt agreement on such temporary measures with respect to Area D at Pulau Tekong, including suspension or adjustment, as may be found necessary to ensure that the infilling operations pending completion of the study referred to in subparagraph (a)(i) with respect to that area do not prejudice Singapore's ability to implement the commitments referred to in paragraphs 85 to 87.

Unanimously,

Directs Singapore not to conduct its land reclamation in ways that might cause irreparable prejudice to the rights of Malaysia or serious harm to the marine environment, taking especially into account the reports of the group of independent experts.

Unanimously,

Decides that Malaysia and Singapore shall each submit the initial report referred to in article 95, paragraph 1, of the Rules of the Tribunal, not later than 9 January 2004 to this Tribunal and to the annex VII arbitral tribunal, unless the arbitral tribunal decides otherwise.

Unanimously,

Decides that each party shall bear its own costs.”

President Nelson and Judge Anderson appended a declaration to the Order of the Tribunal.

Judges *ad hoc* Hossain and Oxman appended a joint declaration to the Order.

Judges Chandrasekhara Rao, Ndiaye, Jesus, Cot and Lucky appended separate opinions to the Order of the Tribunal.

B. International Criminal Court

The International Criminal Court is an independent permanent court established by the Rome Statute of the International Criminal Court, 1998.³

PENDING CASES, JUDGEMENTS AND ORDERS IN 2003

In December 2003, the first referral from a State party was made to the Prosecutor. The President of Uganda referred the situation concerning the Lord's Resistance Army to the Prosecutor. No other referrals were made to the Prosecutor by either States parties or the Security Council. There were no decisions made by the Prosecutor to initiate any investigations. There were no pending cases or judgments delivered in 2003.

³ As at 31 December 2003, there were 92 parties to the Rome Statute. For the text of the Statute, see United Nations *Treaty Series*, vol. 2187, p. 3.

C. International Criminal Tribunal for the former Yugoslavia

The International Criminal Tribunal for the former Yugoslavia is a subsidiary body of the United Nations Security Council. The Tribunal was established by Security Council resolution 827 (1993), adopted on 25 May 1993.⁴

1. JUDGEMENTS

(a) Judgements delivered by the Appeals Chamber in 2003⁵

1. *Prosecutor v. Zdravko Mucić, Hazim Delić and Esad Landžo*, Case No. IT-96-21-Abis, Judgement on Sentence Appeal, 8 April 2003.
2. *Prosecutor v. Milorad Krnojelac*, Case No. IT-97-25-A, Judgement, 17 September 2003.
3. *Prosecutor v. Drago Josipovic*, Case No. IT-95-16-R2, Decision on Motion for Review, 7 March 2003.

(b) Judgements delivered by the Trial Chambers in 2003

1. *Prosecutor v. Dragan Nikolić*, Case No. IT-94-2-S, Sentencing Judgement, 18 December 2003.
2. *Prosecutor v. Biljana Plavšić*, Case No. IT-00-39&40/1-S, Sentencing Judgement, 27 February 2003.
3. *Prosecutor v. Dragan Obrenović*, Case No. IT-02-60/2-S, Sentencing Judgement, 10 December 2003.
4. *Prosecutor v. Predrag Banović*, Case No. IT-02-65/1-S, Sentencing Judgement, 28 October 2003.
5. *Prosecutor v. Mladen Naletilic and Vinko Martinovic*, Case No. IT-98-34-T, Judgement, 31 March 2003.
6. *Prosecutor v. Momir Nikolić*, Case No. IT-02-60/1-S, Sentencing Judgement, 2 December 2003.
7. *Prosecutor v. Blagoje Simić, Miroslav Tadić and Simo Zarić*, Case No. IT-95-9-T, Judgement, 17 October 2003.
8. *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-T, Judgement, 31 July 2003.
9. *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-T, Judgement and Opinion, 5 December 2003.

2. PENDING CASES

(a) Pending appeals in the Appeals Chamber as at 31 December 2003⁶

1. *Prosecutor v. Tihomir Blaškić*, Case No. IT-95-14-T, Judgement, 3 March 2000.
2. *Prosecutor v. Dario Kordić and Mario Čerkez*, Case No. IT-95-14/2-T, Judgement, 26 February 2001.

⁴ The Statute of the Tribunal is annexed to the report of the Secretary-General pursuant to Security Council resolution 808 (1993) (S/25704 and Add.1).

⁵ The list does not include decisions or orders made disposing of interlocutory appeals.

⁶ The list does not include pending interlocutory appeals.

3. *Prosecutor v. Miroslav Kvočka, Milojica Kos, Mlađo Radić, Zoran Žigić and Dragoljub Prcać*, Case No. IT-98-30/1-T, Judgement, 2 November 2001.
4. *Prosecutor v. Mitar Vasiljević*, Case No. IT-98-32-T, Judgement, 29 November 2002.
5. *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, Judgement, 2 August 2001.
6. *Prosecutor v. Mladen Naletilić and Vinko Martinović*, Case No. IT-98-34-T, Judgement, 31 March 2003.
7. *Prosecutor v. Momir Nikolić*, Case No. IT-02-60/1-S, Sentencing Judgement, 2 December 2003.
8. *Prosecutor v. Blagoje Simić, Miroslav Tadić and Simo Zarić*, Case No. IT-95-9-T, Judgement, 17 October 2003.
9. *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-T, Judgement, 31 July 2003.
10. *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-T, Judgement and Opinion, 5 December 2003.

(b) Pending cases before the Trial Chambers
as at 31 December 2003

*Accused in the custody of the International Criminal
Tribunal for the former Yugoslavia*

1. *Prosecutor v. Zeljko Mejakic, Momcilo Gruban, Dusan Fustar, Predrag Banovic and Dusko Knezevic*, Case No. IT-02-65.
2. *Prosecutor v. Ranko Češić*, Case No. IT-95-10/1.
3. *Prosecutor v. Milan Martić*, Case No. IT-95-11.
4. *Prosecutor v. Ivica Rajić, a.k.a. Viktor Andrić*, Case No. IT-95-12.
5. *Prosecutor v. Mile Mrkšić, Miroslav Radić and Veselin Šljivančanin*, Case No. IT-95-13/1.
7. *Prosecutor v. Savo Todović and Mitar Rašević*, Case No. IT-97-25/1.
8. *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60.
9. *Prosecutor v. Radoslav Brđjanin*, Case No. IT-99-36.
10. *Prosecutor v. Milan Milutinović, Nikola Šainović and Dragoljub Ojdanić*, Case No. IT-99-37.
11. *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39&40.
12. *Prosecutor v. Paško Ljubičić*, Case No. IT-00-41.
13. *Prosecutor v. Pavle Strugar*, Case No. IT-01-42.
14. *Prosecutor v. Miodrag Jokić*, Case No. IT-01-42/1.
15. *Prosecutor v. Vladimir Kovačević*, Case No. IT-01-42/2.
16. *Prosecutor v. Rahim Ademi*, Case No. IT-01-46.
17. *Prosecutor v. Enver Hadžihasanović and Amir Kubura*, Case No. IT-01-47.
18. *Prosecutor v. Sefer Halilović*, Case No. IT-01-48.
19. *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54.

20. *Prosecutor v. Darko Mrđa*, Case No. IT-02-59.
21. *Prosecutor v. Miroslav Deronjić*, Case No. IT-02-61.
22. *Prosecutor v. Radovan Stanković*, Case No. IT-96-23/2.

*Accused who remain at large*⁷

1. *Prosecutor v. Goran Borovnica*, Case No. IT-95-3.
2. *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5/18.
3. *Prosecutor v. Miroslav Bralo*, Case No. IT-95-17.
4. *Prosecutor v. Zeljko Raznjatovic (also known as "Arkan")*, Case No. IT-97-27.
5. *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1.
6. *Prosecutor v. Milan Lukić and Sredoje Lukić*, Case No. IT-98-32/1.
7. *Prosecutor v. Ante Gotovina*, Case No. IT-01-45.
8. *Prosecutor v. Vujadin Popović*, Case No. IT-02-57.
9. *Prosecutor v. Ljubiša Beara*, Case No. IT-02-58.
10. *Prosecutor v. Ljubomir Borovčanin*, Case No. IT-02-64.
11. *Prosecutor v. Gojko Janković and Dragan Zelenović*, Case No. IT-96-23/2.
12. *Prosecutor v. Estojan Župljanin*, Case No. IT-99-36.
13. *Prosecutor v. Nebojša Pavković, Vladimir Kazarević, Vlastimir Dardžević and Streten Lukić*, Case o. IT-03-70.

D. International Criminal Tribunal for Rwanda

The International Criminal Tribunal for Rwanda is a subsidiary body of the United Nations Security Council. The Tribunal was established by Security Council resolution 955 (1994), adopted on 8 November 1994.⁸

1. JUDGEMENTS

Judgements delivered by the Trial Chambers in 2003

1. *Prosecutor v. Juvénal Kajelijeli*, Case No. ICTR-98-44A, Judgement and Sentence, 1 December 2003.
2. *Prosecutor v. Eliezer Niyitegeka*, Case No. ICTR-96-14-T, Judgement and Sentence, 16 May 2003.
3. *Prosecutor v. Gérard Ntakirutimana*, Case No. 1: ICTR-96-10; 2: ICTR-96-17-T, Judgement and Sentence, 21 February 2003.
4. *Prosecutor v. Elizaphan Ntakirutimana*, Case No. 1: ICTR-96-10; 2: ICTR-96-17-T, Judgement and Sentence, 21 February 2003.
5. *Prosecutor v. Laurent Semanza*, Case No. ICTR-97-20-T, Judgement and Sentence, 15 May 2003.

⁷ This list does not include accused who are named in indictments under seal.

⁸ The Statute of the Tribunal is contained in the annex to the resolution.

6. *Prosecutor v. Jean Bosco Barayagwiza, Ferdinand Nahimana, Hassan Ngeze*, Case No. ICTR-99-52-T, Judgement and Sentence, 3 December 2003.

2. PENDING CASES

(a) Pending appeals in the Appeals Chamber as at 31 December 2003

1. *Prosecutor v. Jean Bosco Barayagwiza, Ferdinand Nahimana, Hassan Ngeze*, Case No. ICTR-99-52-A, Judgement and Sentence, 3 December 2003.

(b) Pending cases before the Trial Chambers as at 31 December 2003

Accused in the custody of the International Criminal Tribunal for Rwanda

1. *Prosecutor v. Joseph Kanyabashi*, Case No. ICTR-96-15.
2. *Prosecutor v. Elie Ndayambaje*, Case No. ICTR-96-8.
3. *Prosecutor v. Sylvain Nsabimana*, Case No. ICTR-97-29.
4. *Prosecutor v. Arsène Shalom Ntahobali*, Case No. ICTR-97-21.
5. *Prosecutor v. Alphonse Nteziryayo*, Case No. ICTR-97-29.
6. *Prosecutor v. Pauline Nyiramasuhuko*, Case No. ICTR-97-21.
7. *Prosecutor v. Théoneste Bagosora*, Case No. ICTR-96-7.
8. *Prosecutor v. Gratien Kabiligi*, Case No. ICTR-97-34.
9. *Prosecutor v. Anatole Nsengiyumva*, Case No. ICTR-96-12.
10. *Prosecutor v. Aloys Ntabakuze*, Case No. ICTR-97-30.
11. *Prosecutor v. Augustine Bizimungu*, Case No. ICTR-2000-56.
12. *Prosecutor v. Augustin Ndindiliyimana*, Case No. ICTR-2000-56.
13. *Prosecutor v. François-Xavier Nzuwonemeye*, Case No. ICTR-2000-56.
14. *Prosecutor v. Innocent Sagahutu*, Case No. ICTR-2000-56.
15. *Prosecutor v. Casimir Bizimungu*, Case No. 1: ICTR-99-45; S: ICTR-99-50.
16. *Prosecutor v. Justin Mugenzi*, Case No. 1: ICTR-99-47; 2: ICTR-99-50.
17. *Prosecutor v. Jérôme Bicamumpaka*, Case No. 1: ICTR-99-49; 2: ICTR-99-50.
18. *Prosecutor v. Prosper Mugiraneza*, Case No. 1: ICTR-99-48; 2: ICTR-99-50.
19. *Prosecutor v. Edouard Karemera*, Case No. ICTR-98-44.
20. *Prosecutor v. Mathieu Ngirumpatse*, Case No. ICTR-98-44.
21. *Prosecutor v. Joseph Nzirorera*, Case No. ICTR-98-44.
22. *Prosecutor v. François Karera*, Case No. ICTR-01-74.
23. *Prosecutor v. Jean Mpambara*, Case No. ICTR-01-65.
24. *Prosecutor v. Tharcisse Muvunyi*, Case No. ICTR-00-55.
25. *Prosecutor v. André Rwamakuba*, Case No. ICTR-98-44C.
26. *Prosecutor v. Athanase Seromba*, Case No. ICTR-2001-66.

27. *Prosecutor v. Protais Zigiranyirazo*, Case No. ICTR-01-73-I.
28. *Prosecutor v. Paul Bisengimana*, Case No. ICTR-00-60.
29. *Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54.
30. *Prosecutor v. Vincent Rutaganira*, Case No. ICTR-95-1C-I.
31. *Prosecutor v. Sylvestre Gacumbitsi*, Case No. ICTR-01-64.
32. *Prosecutor v. Samuel Imanishimwe*, Case No. ICTR-97-36.
33. *Prosecutor v. Mikaeli Muhimana*, Case No. ICTR-95-1-I.
34. *Prosecutor v. Emmanuel Ndindabahizi*, Case No. ICTR-01-71-I.
35. *Prosecutor v. Aloys Simba*, Case No. ICTR-01-76.
36. *Prosecutor v. Simon Bikindi*, Case No. ICTR-01-72-I.
37. *Prosecutor v. Jean Baptiste Gatete*, Case No. ICTR-2000-61-I.
38. *Prosecutor v. Idelphonse Hategekimana*, Case No. ICTR-2000-55.
39. *Prosecutor v. Gaspard Kanyarukiga*, Case No. ICTR-2002-78-I.
40. *Prosecutor v. Yussuf Munyakazi*, Case No. ICTR-97-36A-I.
41. *Prosecutor v. Simeon Nchamihigo*, Case No. ICTR-01-63.
42. *Prosecutor v. Hormisdas Nsengimana*, Case No. ICTR-2001-69-I.
43. *Prosecutor v. Joseph Nzabirinda*, Case No. ICTR-01-77-I.
44. *Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31-DP.
45. *Prosecutor v. Juvénal Rugambarara*, Case No. ICTR-00-59-I.
46. *Prosecutor v. Emmanuel Rukundo*, Case No. ICTR-01-70-I.

Accused who remain at large⁹

1. *Prosecutor v. Augustin Bizimana*, Case No. ICTR-98-44.
2. *Prosecutor v. Félicien Kabuga*, Case No. ICTR-97-22.
3. *Prosecutor v. Protais Mpiranya*, Case No. ICTR-2000-56.
4. *Prosecutor v. Aloys Ndimbati*, Case No. ICTR-95-1.
5. *Prosecutor v. Idelphonse Nizeyimana*, Case No. ICTR.2000-55.
6. *Prosecutor v. Ladislav Ntaganzwa*, Case No. ICTR-96-9.
7. *Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44.
8. *Prosecutor v. Charles Ryandikayo*, Case No. ICTR-95-1.
9. *Prosecutor v. Charles Sikubwabo*, Case No. ICTR-95-1D.
10. *Prosecutor v. Fulgence Kayishema*, Case No. ICTR-01-67.
11. *Prosecutor v. Bernard Munyagishari*, Case No. ICTR-97-26.
12. *Prosecutor v. Pheneas Munyarugarama*, Case No. ICTR-02-79.
13. *Prosecutor v. Gregoire Ndahimana*, Case No. ICTR-01-68.
14. *Prosecutor v. Augustin Ngirabatware*, Case No. ICTR-99-54.
15. *Prosecutor v. Jean Bosco Uwinkindi*, Case No. ICTR-01-75.

⁹ This list does not include accused who are named in indictments under seal.

E. Special Court for Sierra Leone

The Special Court for Sierra Leone is an independent court established by the Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Special Court for Sierra Leone, 2002.¹⁰

1. JUDGEMENTS

(a) Judgements delivered by the Appeals Chamber in 2003¹¹

1. *Prosecutor v. Sam Hinga Norman*, Case No. SCSL-2003-08-PT, Decision on the Defence Preliminary Motion on Lack of Jurisdiction: Command Responsibility, 15 October 2003.
2. *Prosecutor v. Sam Hinga Norman*, Case No. SCSL-2003-08-PT, Decision on Application by the University of Toronto International Human Rights Clinic for Leave to File *Amicus Curiae* Brief, 1 November 2003.
3. *Prosecutor v. Morris Kallon*, Case No. SCSL-2003-07-PT, Decision on Application by the Redress Trust, Lawyers Committee for Human Rights and the International Commission of Jurists for Leave to File *Amicus Curiae* Brief and to Present Oral Submissions, 1 November 2003.
4. *Prosecutor v. Sam Hinga Norman, Prosecutor v. Morris Kallon, Prosecutor v. Augustine Gbao*, Case Nos. SCSL-2003-08-PT, SCSL-2003-07-PT & SCSL-2003-09-PT, Decision on the Applications for a Stay of Proceedings and Denial of Right to Appeal, 4 November 2003.
5. *Prosecutor v. Sam Hinga Norman*, Case No. SCSL-2003-08-PT, Decision on Appeal by the Truth and Reconciliation Commission for Sierra Leone (“TRC” or “The Commission”) and Chief Samuel Hinga Norman JP Against the Decision of His Lordship, Mr Justice Bankole Thompson Delivered on 30 October 2003 to Deny the TRC’s Request to hold a Public Hearing with Chief Samuel Hinga Norman JP, 28 November 2003.

(b) Judgements delivered by the Trial Chamber in 2003

No judgements were delivered by the Trial Chamber in 2003.

2. PENDING CASES

(a) Pending appeals in the Appeals Chamber as at 31 December 2003¹²

1. *Prosecutor v. Charles Ghankay Taylor*, Case No. SCSL-2003-01-PT.
2. *Prosecutor v. Morris Kallon*, Case No. SCSL-2003-07-PT

¹⁰ For the text of the Agreement and the Statute of the Special Court, see United Nations *Treaty Series*, vol. 2178, p. 137.

¹¹ This list includes decisions and orders made in respect of preliminary motions, interlocutory appeals and other motions determined by the Appeals Chamber.

¹² This list includes the cases in which there were pending preliminary motions, interlocutory appeals and other motions to be determined by the Appeals Chamber.

3. *Prosecutor v. Sam Hinga Norman*, Case No. SCSL-2003-08-PT.
4. *Prosecutor v. Augustine Gbao*, Case No. SCSL-2003-09-PT.
5. *Prosecutor v. Brima Bazzy Kamara*, Case No. SCSL-2003-10-PT.
6. *Prosecutor v. Moinina Fofana*, Case No. SCSL-2003-11-PT.
7. *Prosecutor v. Allieu Kondewa*, Case No. SCSL-2003-12-PT.
8. *Prosecutor v. Santigie Borbor Kanu*, Case No. SCSL-2003-13-PT.

(b) Pending cases before the Trial Chamber
as at 31 December 2003

*Accused in the custody of the Special Court for Sierra Leone*¹³

1. *Prosecutor v. Issa Sesay*, Case No. SCSL-2003-05-PT.
2. *Prosecutor v. Alex Tamba Brima*, Case No. SCSL-2003-06-PT.
3. *Prosecutor v. Morris Kallon*, Case No. SCSL-2003-07-PT.
4. *Prosecutor v. Sam Hinga Norman*, Case No. SCSL-2003-08-PT.
5. *Prosecutor v. Augustine Gbao*, Case No. SCSL-2003-09-PT.
6. *Prosecutor v. Brima Bazzy Kamara*, Case No. SCSL-2003-10-PT.
7. *Prosecutor v. Moinina Fofana*, Case No. SCSL-2003-11-PT.
8. *Prosecutor v. Allieu Kondewa*, Case No. SCSL-2003-12-PT.
9. *Prosecutor v. Santigie Borbor Kanu*, Case No. SCSL-2003-13-PT.

*Accused who remain at large*¹⁴

1. *Prosecutor v. Charles Ghankay Taylor*, Case No. SCSL-2003-01-PT.
2. *Prosecutor v. Jonny Paul Koroma*, Case No. SCSL-2003-03-I.

¹³ The case, *Prosecutor v Foday Saybana Sankoh*, Case No. SCSL-2003-02-PT, was terminated upon the endorsement by the Trial Chamber of the withdrawal of the Indictment on 8 December 2003 following the death of the Accused.

¹⁴ The case, *Prosecutor v Sam Bockarie*, Case No. SCSL-2003-04-PT, was terminated upon the endorsement by the Trial Chamber of the withdrawal of the Indictment on 8 December 2003 following the death of the Accused. The Accused was at large at the time of his death.