

**SPECIAL COURT FOR SIERRA LEONE
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TRIAL CHAMBER I

Before: Hon. Justice Benjamin Mutanga Itoe, Presiding Judge
Hon. Justice Bankole Thompson
Hon. Justice Pierre Boutet

Registrar: Robin Vincent

Date: 24th of May 2005

PROSECUTOR **Against** **ISSA HASSAN SESAY**
MORRIS KALLON
AUGUSTINE GBAO
(Case No. SCSL-04-15-T)

**CONSEQUENTIAL ORDER REGARDING DECISION ON PROSECUTION'S
MOTION
FOR JUDICIAL NOTICE AND ADMISSION OF EVIDENCE**

Office of the Prosecutor:

Luc Côté
Lesley Taylor
Peter Harrison

Defence Counsel for Issa Hassan Sesay:

Wayne Jordash
Sareta Ashraph

Defence Counsel for Morris Kallon:

Shekou Touray
Melron Nicol-Wilson

Defence Counsel for Augustine Gbao

Andreas O'Shea
John Cammegh

TRIAL CHAMBER I ("Chamber") of the Special Court for Sierra Leone ("Special Court") composed of Hon. Justice Benjamin Mutanga Itoe, Presiding Judge, Hon. Justice Bankole Thompson, and Hon. Justice Pierre Boutet;

CONSIDERING this Chamber’s *Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence* in the proceedings against Issa Hassan Sesay, Morris Kallon and Augustine Gbao dated the 24th of June 2004^[1];

CONSIDERING the recent decision of the Appeals Chamber in the proceedings against Sam Hinga Norman, Moinina Fofana and Allieu Kondewa, *Fofana – Decision on Appeal Against “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence”* dated the 16th of May 2005^[2];

NOTING that leave was not sought to appeal the *Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence* in the RUF proceedings;

MINDFUL of the importance of ensuring the consistent application of legal principles in the trial proceedings before this Chamber;

NOTING the powers of the Chamber pursuant to Rule 54 of the Rules of Procedure and Evidence of the Special Court;

RECOGNISING that certain findings of the Chamber in the RUF Decision are identical to those findings made in the CDF Decision that were overturned on appeal by the Appeals Chamber;

ACCORDINGLY FINDS that the Fact D should not have been judicially noticed by the Trial Chamber^[3];

FURTHER FINDS that judicial notice should not have been taken as to the contents of the entirety of the UN Security Council Resolutions listed in Annex II but that “the Security Council Resolutions annexed to the Prosecution Motion for Judicial Notice do qualify for judicial notice, once the facts contained therein are extrapolated from each of the Resolutions and recognised as incapable of reasonable dispute”^[4];

ORDERS that judicial notice in the RUF trial proceedings be taken only with regard to those facts enumerated in Annex I to this Consequential Order;

FURTHER ORDERS that judicial notice in the RUF trial proceedings be taken with regard to the existence and authenticity of those documents contained in Part I of Annex II and that judicial notice be taken with regard to the existence, authenticity and contents of only those documents contained in Part II of Annex II appended to this Consequential Order.

Done at Freetown, Sierra Leone, this 24th day of May 2005

Hon. Justice Pierre Boutet	Hon. Justice Benjamin Mutanga Itoe Presiding Judge Trial Chamber I	Hon. Justice Bankole Thompson
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[Seal of the Special Court for Sierra Leone]

Annex I

- A. The conflict in Sierra Leone occurred from March 1991 until January 2002.
- B. The city of Freetown, the Western Area, and the following districts are located in the country of Sierra Leone: Port Loko, Bombali, Koinadugu, Kono, Kailahun, Kenema, Bo.
- E. Sierra Leone acceded to the Geneva Conventions of 12 August 1949 and Additional Protocol II to the Geneva Conventions on 21 October 1986.
- H Groups commonly referred to as the RUF, AFRC and CDF were involved in armed conflict in Sierra Leone.
- J. The RUF, under the leadership of FODAY SAYBANA SANKOH, began organized armed operations in Sierra Leone in March 1991.
- K. During the ensuing armed conflict, the RUF forces were also commonly referred to as “RUF”, “rebels”, and “People’s Army” by the population of Sierra Leone.
- M. On 30 November 1996, in Abidjan, Ivory Coast, FODAY SAYBANA SANKOH and Ahmed Tejan Kabbah, President of the Republic of Sierra Leone, signed a peace agreement which brought a temporary cessation to active hostilities.
- N. However, the active hostilities thereafter recommenced.
- O. The AFRC was founded by members of the Armed Forces of Sierra Leone who seized power from the elected government of the Republic of Sierra Leone via a coup d’état on 25 May 1997. Soldiers of the Sierra Leone Army (SLA) comprised the majority of the AFRC membership.
- P. On 25 May 1997 JOHHNY PAUL KOROMA aka JPK became the leader and Chairman of the AFRC.
- Q. The AFRC forces were commonly referred to as “Junta” by the population of Sierra Leone.
- R. Shortly after the AFRC seized power, at the invitation of Johnny Paul Koroma, and upon the order of FODAY SAYBANA SANKOH, leader of the RUF, the RUF formed an alliance with the AFRC.
- S. The AFRC/RUF Junta forces (Junta) were also commonly referred to as “Junta”, “rebels”, and “People’s Army” by the population of Sierra Leone.

T. After the 25 May 1997 coup d'état, a governing body was created within the Junta that was the sole executive and legislative authority within Sierra Leone during the Junta.

U. The governing body included leaders of both the AFRC and the RUF.

V. The Junta was forced from power by forces acting on behalf of the ousted government of President Kabbah about 14 February 1998. President Kabbah's government returned in March 1998.

W. After the Junta was removed from power, the AFRC/RUF alliance continued.

X. On 7 July 1999, in Lomé, Togo, FODAY SAYBANA SANKOH, and Ahmed Tejan Kabbah, President of the Republic of Sierra Leone, signed a peace agreement.

Annex II

Part I - As To Their Existence and Authenticity

UN Security Council Resolutions

Tab 1. Resolution 1132 (8 October 1997)

Tab 2. Resolution 1181 (13 July 1998), para. 1

Tab 3. Resolution 1220 (12 January 1999)

Tab 4. Resolution 1270 (22 October 1999) para 6.

Tab 5. Resolution 1289 (7 February 2000) para 4.

Tab 6. Resolution 1299 (19 May 2000)

Tab 7. Resolution 1306 (5 July 2000)

Tab 8. Resolution 1313 (4 August 2000)

Tab 9. Resolution 1346 (30 March 2001)

Secretary General Reports on the Situation in Freetown

Tab 10: 21 November 1995 (S/1995/975), paragraph 2.

Tab 11: 18 March 1998 (S/1998/249) paragraphs 6, 20.

Tab 12: June 1998 (S/1998/486) paras 26, 27, 35-37

Reports of the United Nations Observer Mission in Sierra Leone (UNOMSIL)

Tab 13: First Progress Report 12 August 1998 (S/1998/750) paras. 10, 12, 13, 14, 33, 36, 37, 38

Tab 14: Second Progress Report 16 October 1998 (S/1998/960) para. 21.

Tab 15: Third Progress Report 16 December 1998 (S/1998/1176) para. 18.

Tab 16: Fifth Report 4 March 1999 (S/1999/237) paras 2, 21-27

Tab 17: Sixth Report 4 June 1999 (S/1999/645) para. 7, 19, 20, 30, 31, 32.

Reports of the United Nations Mission in Sierra Leone (UNAMSIL):

Tab 67: Thirteenth Report 14 March 2002 (S/2002/267) para 2.

Tab 68: 6 December 1999 (S/1999/1223) para 3, 4, 7

Tab 69: 19 May 2000 (S/2000/455)

Official Statements by President of the Security Council

Tab 70: Statement by the President of the Security Council, United Nations Security Council S/PRST/2000/14 (4 May 2000)

Tab 71: Statement by the President of the Security Council, United Nations Security Council S/PRST/2000/24 (17 July 2000)

Humanitarian Situation Reports – UN Office for the Coordination of Humanitarian Affairs:

Tab 18: Sierra Leone Humanitarian Situation Report 5 June 1997, para. 5.

Tab 19: Sierra Leone Humanitarian Situation Report 14 July 1997.

Tab 20: Sierra Leone Humanitarian Situation Report 8 September 1997.

Tab 21: Sierra Leone Humanitarian Situation Report 17 May 1999 Sections 2, 3.

Tab 22: Sierra Leone Humanitarian Situation Report 10 August 1999, Section 1,2,3,5.

Tab 23: Sierra Leone Humanitarian Situation Report 9 October 1999, Section 1,2,3.

Tab 24: Sierra Leone Humanitarian Situation Report 20 November 1999, Section 2.

Tab 25: Sierra Leone Humanitarian Situation Report 7 August 2000, Section A.

Other Miscellaneous UN Reports

Tab 26: Human Rights Assessment Mission to Freetown 25 January and 1 to 4 February 1999, Findings and Recommendations, pages 3-9.

Tab 27: Report of the Panel of Experts Appointed Pursuant to the United Nations Security Council Resolution 1306 (2000), December 2000, paragraph 180.

Tab 28: Report of the Panel of Experts Appointed Pursuant to UN Security Council Resolution 1343 (S/2001/1015), 26 October 2001

Tab 29: UNHCR Report on Atrocities Committed Against the Sierra Leone Population, UNHCR Conakry Branch Office, 28 January 1999, Victim reports Cases #1-38.

Tab 72: UNCHR Background Paper on Refugees and Asylum Seekers from Sierra Leone, Geneva, November 1998

Sierra Leone Official Documents

Tab 51 and 65: Government Notices No 215 (P.N. No. 3 of 1997) of 3 September 1997 published in gazettes nos. 52 and 54 of 4 September 1997 & 18 September respectively. Sierra Leone Gazette Nos. 52 and 54.

Tab 62: AFRC Proclamation – PN no.3 of 1997, Supplement to Sierra Leone Gazette Vol. CXXVIII, No. 34, dated 28 May 1997.

Tab 64: Constitution of Sierra Leone 1991 – Sections 55, 156

Tab 76: Government Notice 272 (P.N. No. 3 of 1997), Sierra Leone (SL) Gazette No. 69.

Tab 77: Decrees 1, 4, 5, 6 and 7 of 1997. Dec 1 – SL Gazette No. 41; Dec 5 – SL Gazette No. 49; Dec 6 – SL Gazette No. 63; Dec. 7 – SL Gazette No. 66.

Part II - As To Their Existence, Authenticity and Contents

Maps, Peace Agreements, Treaties

Tab 55: The Lomé Peace Accord, the Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL), 7 July 1999.

Tab 56: The Abidjan Peace Accord, The Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL), 30 November 1996.

Tab 57: The Conakry Accord: ECOWAS Six-Month Peace Plan For Sierra Leone 23 October 1997 - 22 April 1998, 23 October 1997.

Tab 58: Ceasefire Agreement Between Government and the Revolutionary United Front, 18 May 1999

Tab 88: Map of Sierra Leone, Scale 1:350,000, UNAMSIL Geographic Information Service, 6 May 2002.

Tab 89: Article 3(1) of the Convention (IV) to the Protection of Civilian Persons in the Time of War Geneva 12 August 1949.

Tab 90: Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977

Tab 91: ICRC List of States party to the Geneva Conventions and their Additional Protocols

Tab 92: Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977

[1] *Prosecutor v. Sesay et al.*, SCSL-04-15-PT, *Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence*, 24 June 2004.

[2] *Prosecutor v. Norman et al.*, SCSL-04-14-AR73, *Fofana – Decision on Appeal Against “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence”*, 16 May 2005.

[3] *Id.*, para. 41.

[4] *Id.*, para. 49.