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SPECIAL COURT FOR SIERRA LEONE
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TRIAL CHAMBER I

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

Registrar: Mr. Lovemore G. Munlo SC

Date: 2nd of March 2007

SPECIAL COURT FOR SIERRA LEONE
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PROSECUTOR Against ISSA HASSAN SESAY
MORRIS KALLON
AUGUSTINE GBAO
(Case No. SCSL-04-15-T)

Public Document

DECISION ON DEFENCE REQUEST FOR CLARIFICATION ON RULE 98 DECISION

Office of the Prosecutor:

James C. Johnson
Peter Harrison

Defence Counsel for Issa Hassan Sesay:

Wayne Jordash
Sareta Ashraph

Defence Counsel for Morris Kallon:

Shekou Touray
Charles Taku
Melron Nicol-Wilson

Court Appointed Counsel for Augustine Gbao:

Andreas O'Shea
John Cammegh

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

SEIZED of the Request for Clarification on the Rule 98 Decision filed publicly by the Defence for the First Accused, Issa Sesay ("Defence") on the 7th of November 2006 ("Motion");

NOTING the Response to the Motion filed by the Office of the Prosecutor ("Prosecution") on the 13th of November 2006 ("Response"), and the Defence Reply thereto filed on the 16th of November 2006 ("Reply");¹

MINDFUL of the Corrected Amended Consolidated Indictment dated the 2nd of August 2006 ("RUF Indictment");

PURSUANT to Rules 54 and 98 of the Rules of Procedure and Evidence ("Rules");

AFTER HAVING DELIBERATED

THE TRIAL CHAMBER HEREBY ISSUES THE FOLLOWING DECISION:

I. INTRODUCTION

1. On the 4th of August 2006, the Defence for the three Accused, Issa Sesay, Morris Kallon, and Augustine Gbao, respectively, announced their intentions to move for a judgement of acquittal pursuant to Rule 98 of the Rules. Oral arguments were accordingly heard on the 16th of October 2006. In addition, written skeletal arguments were previously filed by each of the Defence Teams and the Prosecution pursuant to an Order of this Court.²

2. Each of the motion for judgement of acquittal was dismissed by this Chamber in its oral Decision rendered publicly on the 25th of October 2006 ("RUF Rule 98 Decision"),³ although this Chamber did find that no or insufficient evidence legally capable of supporting a conviction was adduced by the Prosecution in relation to several geographical locations pleaded in the Indictment. Consequently, each of the Accused has been put to his election to call evidence, if he so desires.

¹ See also *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T, Order for Expedited Filing, 8 November 2006.

2.
RUF B

II. GENERAL OVERVIEW OF THE PARTIES' SUBMISSIONS

3. The Defence requests this Chamber to issue four clarifications to its RUF Rule 98 Decision. Namely, the Defence requests clarification on 1) the significance of certain general paragraphs contained in the current RUF Indictment;⁴ 2) the probative value of evidence of crimes committed in locations not specified in the Indictment;⁵ 3) the probative value of evidence of crimes in locations near other locations specified in the Indictment;⁶ and, finally, 4) the definition of time periods such as "about the month of February 1999," and "between [a date] and [another date]" when pleaded in the Indictment.⁷

4. The Prosecution submits that the Motion should be dismissed on the various grounds that neither the Defence, in its Rule 98 submissions, nor the Trial Chamber, in its RUF Rule 98 Decision raised issues concerning with the alleged non specificity of the RUF Indictment and that, consequently, the said Rule 98 Decision does not require clarification;⁸ that the Motion does not fall within the scope of the Rule 98 proceedings and, in effect, is a new motion for defects in the form of the RUF Indictment;⁹ and, finally, that the requested clarifications are too abstract or generic to warrant an answer.¹⁰

III. DELIBERATION

5. The Chamber wishes to emphasize, in response to the Motion, that there does not exist, within the international adjudicatory framework of the Special Court, jurisdiction empowering the Court, either at the trial or appellate level, to clarify (except for clerical errors) its decisions after they have been delivered or published. The Chamber opines that the exceptional review jurisdiction conferred upon the Court with respect to its decisions is certainly not designed to be utilized as a "clarification mechanism or device".

² See *Ibid.*, Scheduling Order Concerning Oral Motions for Judgement of Acquittal Pursuant to Rule 98, 2 August 2006.

³ Trial Transcripts, 25 October 2006, p. 1-49.

⁴ Motion, paras. 8-11. See also Reply, para. 7.

⁵ Motion, para. 16.

⁶ *Ibid.*, paras 6, 18-19. See also Reply, paras. 11-12.

⁷ Motion, para. 21. See also Reply, paras. 14-15.

⁸ Response, para. 5.

⁹ *Ibid.*, paras. 6-9, 13-17.

¹⁰ *Ibid.*, paras. 18-25.

6. The Chamber wishes to observe that even if it possessed such jurisdiction, it is of the view that the alleged clarifications sought by the Defence in its Motion relate essentially to, or constitute, matters that could have formed the bases of grounds of appeal.

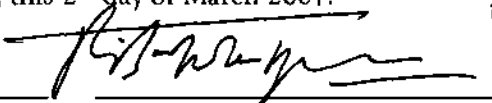
7. The Chamber, therefore, concludes that not being vested with either a "clarification jurisdiction" or an appellate jurisdiction in respect of its previous decisions, the Motion is misconceived and cannot be entertained.

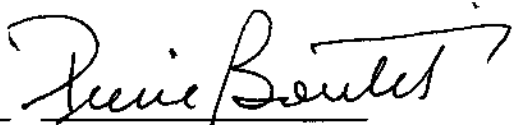
IV. DISPOSITION

8. For the foregoing reasons, the Motion is accordingly **DISMISSED** for want of jurisdiction.

Done at Freetown, Sierra Leone, this 2nd day of March 2007.


Hon. Justice Benjamin Mutanga Itoe


Hon. Justice Bankole Thompson
Presiding Judge
Trial Chamber I


Hon. Justice Pierre Boutet

