

SCSL-2004-15

(1145-1161)

1145

SPECIAL COURT FOR SIERRA LEONE

OFFICE OF THE PROSECUTOR

FREETOWN - SIERRA LEONE

Before: Judge Bankole Thompson
Judge Itoe
Judge Boutet

Registrar: Mr. Robin Vincent

Date Filed: 3 March 2004

THE PROSECUTOR

Against

**ISSA HASSAN SESAY
MORRIS KALLON
AUGUSTINE GBAO
(Case No. SCSL - 2004 - 15 - PT)**

PROSECUTOR'S REQUEST TO ADMIT

Office of the Prosecutor:

Mr. Luc Côté
Mr. Robert Petit
Mr. Paul Flynn
Mr. Abdul Tejan-Cole
Ms. Leslie Taylor
Ms. Boi-Tia Stevens
Mr. Christopher Santora
Ms. Sharan Parmar

Defence Counsel for Issa Sesay

Mr. Timothy Clayson
Mr. Wayne Jordash
Mr. Serry Kamal

Defence Counsel for Morris Kallon

Mr. Sylvain Roy, Acting Principal Defender
Mr. Rupert Skilbeck
Ms. Haddijatou Kah-Jallow

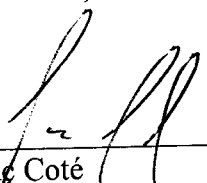
Defence Counsel for Augustine Gbao

Mr. Andreas O'Shea
Mr. Girish Thanki
Ms. Glenna Thompson

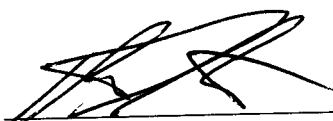


1. The Prosecution submits this **REQUEST TO ADMIT (the Request)** in light of the Status Conference in this case scheduled for 2 March 2004, and with a view of stream lining the issues for trial.
2. The Prosecution requests the Defence of **Issa Sesay, Morris Kallon and Augustine Gbao** to admit, deny, refuse, or admit/deny in part, each statement in Parts I – III of the Request which follows.
3. For each statement admitted/denied in part, the Prosecution requests that the Defence explain in full the basis of the partial admission/denial and/or give its own version of the facts.
4. The Prosecution requests that the Defence submits its response to this Request to Admit to the Office of the Prosecutor within 15 (fifteen) days of the service of this request.

Freetown, 3 March 2004.



Luc Côté
Chief of Prosecution



Robert Petit
Senior Trial Attorney

SPECIAL COURT FOR SIERRA LEONE

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(Case No. SCSL – 2004 – 15 – PT)

PROSECUTOR'S REQUEST TO ADMIT

PART I: LEGAL ADMISSIONS

- 1) At all times relevant to this Indictment, a state of armed conflict existed within Sierra Leone.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 2) A nexus existed between the armed conflict and all acts or omissions charged in the Amended Indictment as Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II and as Other Serious Violations of International Humanitarian Law.

ADMITTED DENIED REFUSED ADMITTED/ DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 3) The Accused and all members of the organized armed factions engaged in fighting within Sierra Leone were required to abide by International Humanitarian Law and the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 12 August 1949, and Additional Protocol II to the Geneva Conventions, to which the Republic of Sierra Leone acceded on 21 October 1986.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 4) All acts and omissions charged in the Indictment as Crimes Against Humanity were committed as part of a widespread or systematic attack directed against the civilian population of Sierra Leone.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 5) The civilian or civilian population referred to in the Indictment were persons who took no active part in the hostilities, or who were no longer taking an active part in the hostilities.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 6) All offences alleged in the Indictment were committed within the territory of Sierra Leone after 30 November 1996.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

PART II: FACTUAL ADMISSIONS

- 7) The organized armed factions involved in the armed conflict included the Revolutionary United Front (RUF), the Civil Defence Forces (CDF) and the Armed Forces Revolutionary Council (AFRC).

ADMITTED DENIED REFUSED ADMITTED/DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 8) The organized armed group that became known as the RUF, led by FODAY SAYBANA SANKOH aka POPAY aka PAPA aka PA, was founded about 1988 or 1989 in Libya.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 9) The RUF, under the leadership of FODAY SAYBANA SANKOH, began organized armed operations in Sierra Leone in March 1991.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 10) 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.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 11) The CDF was comprised of Sierra Leonean traditional hunters, including the Kamajors, Gbethis, Kapras, Tamaboros and Donsos and fought against the RUF and AFRC.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 12) 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.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 13) However, the active hostilities thereafter recommenced.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 14) 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.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 15) On 25 May 1997 JOHNNY PAUL KOROMA aka JPK became the leader and Chairman of the AFRC.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 16) The AFRC forces were also commonly referred to as “Junta”, “soldiers”, “SLA”, and “ex-SLA” by the population of Sierra Leone.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 17) 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 joined with the AFRC. The AFRC and RUF acted jointly thereafter.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 18) The AFRC/RUF Junta forces (Junta) were also commonly referred to as “Junta”, “rebels”, “soldiers”, “SLA”, “ex-SLA” and “People’s Army” by the population of Sierra Leone.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 19) After the 25 May 1997 coup d’état, a governing body, the Supreme Council, was created within the Junta. The Supreme Council was the sole executive and legislative authority within Sierra Leone during the junta.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 20) The governing body included leaders of both the AFRC and RUF.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 21) 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.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 22) After the Junta was removed from power the AFRC/RUF alliance continued.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 23) 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.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 24) However, active hostilities continued.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 25) At all times relevant to the Amended Indictment, members of the RUF, AFRC, Junta and/or AFRC/RUF forces (AFRC/RUF) conducted armed attacks throughout the territory of the Republic of Sierra Leone, including Bo, Kono, Kenema, Koinadugu, Bombali and Kailahun and Port Loko Districts and the city of Freetown and the Western Area.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 26) Targets of the armed attacks included civilians and humanitarian assistance personnel and peacekeepers assigned to the United Nations Mission in Sierra Leone (UNAMSIL), which had been created by United Nations Security Council Resolution 1270 (1999).

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 27) These attacks were carried out primarily to terrorize the civilian population, but also were used to punish the population for failing to provide sufficient support to the RUF, AFRC and/or AFRC/RUF, or for allegedly providing support to the Kabbah government or to pro-government forces.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 28) The attacks included unlawful killings, physical and sexual violence against civilian men, women and children, abductions and looting and destruction of civilian property.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 29) Many civilians saw these crimes committed; others returned to their homes or places of refuge to find the results of these crimes – dead bodies, mutilated victims and looted and burnt property.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 30) As part of the campaign of terror and punishment the RUF, AFRC and/or AFRC/RUF routinely captured and abducted members of the civilian population.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 31) Captured women and girls were raped by members of the RUF, AFRC and/or AFRC/RUF; many of the captured women and girls were abducted and used as sex slaves and as forced labour by members of the RUF, AFRC and/or AFRC/RUF. Some of these women and girls were held captive for years by members of the RUF, AFRC and/or AFRC/RUF.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 32) The RUF, AFRC and/or AFRC/RUF also abducted men and boys whom they used as forced labour; some of them were also held captive for years.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 33) Many abducted boys and girls were given combat training by the RUF, AFRC and/or AFRC/RUF and used in active fighting by the RUF, AFRC and/or AFRC/RUF.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 34) The RUF, AFRC and/or AFRC/RUF also physically mutilated men, women and children, including amputating their hands or feet and carving "AFRC" and/or "RUF" on their bodies.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

PART III: THE ACCUSED

ISSA HASSAN SESAY

- 35) At all times relevant to the Indictment **ISSA HASSAN SESAY** ("the Accused") was a senior officer and commander in the RUF, Junta and AFRC/RUF forces.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 36) Between early 1993 and early 1997, the Accused occupied the position of RUF Area Commander. Between about April 1997 and December 1999, the Accused held the position of the Battle Group Commander of the RUF, subordinate only to the RUF Battle Field Commander, SAM BOCKARIE aka MOSQUITO aka MASKITA, the leader of the RUF, FODAY SAYBANA SANKOH and the leader of the AFRC, JOHNNY PAUL KOROMA.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 37) During the Junta regime, the Accused was a member of the Junta governing body. From early 2000 to about August 2000, the Accused served as the Battle Field Commander of the RUF, subordinate only to the leader of the RUF, FODAY SAYBANA SANKOH, and the leader of the AFRC, JOHNNY PAUL KOROMA.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 38) FODAY SAYBANA SANKOH has been incarcerated in the Republic of Sierra Leone from about May 2000 until about 29 July 2003. From about May 2000 until about 10 March 2003, by order of FODAY SAYBANA SANKOH, the Accused directed all RUF activities in the Republic of Sierra Leone.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

MORRIS KALLON

- 39) At all times relevant to the Indictment, **MORRIS KALLON** (“the Accused”) was a senior officer and commander in the RUF, Junta and AFRC/RUF forces.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 40) Between about May 1996 and about April 1998, the Accused was a Deputy Area Commander. Between about April 1998 and about December 1999, the Accused was Battle Field Inspector within the RUF, in which position he was subordinate only to the RUF Battle Group Commander, the RUF Battlefield Commander, the leader of the RUF, FODAY SAYBANA SANKOH, and the leader of the AFRC, JOHNNY PAUL KOROMA.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 41) During the Junta regime the Accused was a member of the Junta governing body.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 42) In early 2000 the Accused became the Battle Group Commander in the RUF, subordinate only to the RUF Battle Field Commander, ISSA HASSAN SESAY, the leader of the RUF, FODAY SAYBANA SANKOH, and the leader of the AFRC, JOHNNY PAUL KOROMA.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 43) About June 2001 the Accused became RUF Battle Field Commander, subordinate only to the leader of the RUF, FODAY SAYBANA SANKOH, ISSA HASSAN SESAY, to whom FODAY SAYBANA SANKOH had given direct control over all RUF operations, and to the leader of the AFRC, JOHNNY PAUL KOROMA.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

AUGUSTINE GBAO

- 44) At all times relevant to this Indictment, **AUGUSTINE GBAO** (“the Accused”) was a senior officer and commander in the RUF and AFRC/RUF forces.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 45) The Accused joined the RUF in 1991 in Liberia. Prior to the coup, the Accused was Commander of the RUF Internal Defence Unit, in which position he was in command of all RUF Security units.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 46) Between about November 1996 until about mid 1998, the Accused was a senior RUF Commander in control of the area of Kailahun Town, Kailahun District. In this position, between about November 1996 and about April 1997 the Accused was subordinate only to the RUF Battle Group Commander, the RUF Battle Field Commander and the leader of the RUF, FODAY SAYBANA SANKOH. In this position, from about April 1997 and about mid 1998, the Accused was subordinate only to the RUF Battle Field Commander, the leader of the RUF, FODAY SAYBANA SANKOH, and the leader of the AFRC, JOHNNY PAUL KOROMA.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 47) Between about mid 1998 and about January 2002, the Accused was Overall Security Commander in the AFRC/RUF forces, in which position he was in command of all Intelligence and Security units within the AFRC/RUF forces. In this position, the Accused was subordinate only to the leader of the RUF, FODAY SAYBANA SANKOH, and the leader of the AFRC, JOHNNY PAUL KOROMA.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

For partial admission/denial, please provide explanation below. Use additional page(s) as necessary.

- 48) Between about March 1999 until about January 2002, the Accused was also the joint Commander of AFRC/RUF forces in the Makeni area, Bombali District. As commander of AFRC/RUF forces in the Makeni area, the Accused was subordinate only to the RUF Battle Field Commander, the leader of the RUF, FODAY SAYBANA SANKOH, and the leader of the AFRC, JOHNNY PAUL KOROMA.

ADMITTED DENIED REFUSED ADMITTED / DENIED IN PART

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