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SCSL – 04 – 15 – T
(24223 – 24236)

SPECIAL COURT FOR SIERRA LEONE
TRIAL CHAMBER I

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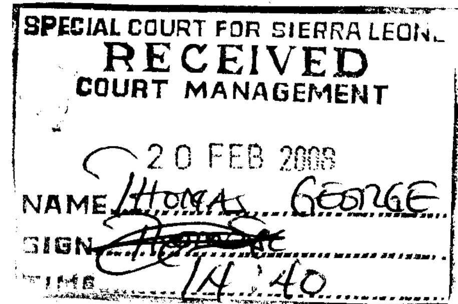

Before: Hon. Justice, Benjamin Mutanga Itoe, Presiding
Hon. Justice Bankole Thompson
Hon. Justice Pierre Boutet

Registrar: Mr. Herman Von Hebel

Date filed: 20th February 2008

THE PROSECUTOR **against** **ISSA HASSAN SESAY**
MORRIS KALLON
AUGUSTINE GBAO

Case No. SCSL -2004-15-T

PUBLIC

REPLY TO PROSECUTION RESPONSE TO KALLON MOTION ON CHALLENGES TO THE FORM OF THE INDICTMENT AND FOR RECONSIDERATION OF ORDER REJECTING FILING AND IMPOSING SANCTIONS

Office of the Prosecutor:

Peter Harrison
Reginald Fynn

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INTRODUCTION

1. On 4 December 2007, the Second Accused, Morris Kallon, applied to the Chamber for leave to file objections to the form of the indictment[1] by way of a motion in excess of the page limit laid down in Article 6(C) of the Practice Direction.[2] Annexed to the Application was a draft motion which was the subject of the Application. On 14 December 2007, the Chamber issued an order[3] denying the Application and stating, *inter alia,* that the Chamber was satisfied that "the Defence can address the issues raised in the [m]otion within the [ten] page limit...prescribed by the Practice Direction." As was noted by the Chamber, the annex contained 42 pages of submissions and legal arguments.
2. In light of that decision, on 28 January 2008, the Kallon Defence filed a motion challenging the form of the Indictment.[4] On 29 January 2008, the Prosecution filed a motion requesting relief in relation to the aforementioned motion.[5] On 31 January 2008, the Chamber issued the following directives: (i) "that the Court Management Service remove the Motion from the official court record of [the RUF] case"; and (ii) "that the Defence be not paid the fees or costs associated with the Motion by the Defence Office."[6]
3. On 7 February 2008, in light of the aforementioned proceedings, the Kallon Defence filed a further motion,[7] to which the Prosecution responded on 15 February 2008.[8] The Defence hereby files its reply.

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[1] *P v. Sesay et al.,* SCSL-04-15-PT-82, Corrected Amended Consolidated Indictment, ("the Indictment").

[2] *P v. Sesay et al.,* SCSL-04-15-T-985, Kallon Application for Leave to Make a Motion in Excess of the Page Limit, 4 Dec. 07, (the "Application"); referring to The Practice Direction on Filing Documents Before the Special Court for Sierra Leone, (the "Practice Direction").

[3] *P v. Sesay et al.,* SCSL-04-15-T, Decision on Kallon Application for Leave to Make a Motion in Excess of the Page Limit, 14 Dec. 07.

[4] *P v. Sesay et al.,* SCSL-04-15-T-960, Kallon Motion Challenging Defects in the Form of the Indictment with Annexes A, B and C, 28 Jan. 08, (this document was subsequently struck from the court records, pursuant to a order of the court), ("the Previous Motion").

[5] *P v. Sesay et al.,* SCSL-04-15-T-961, Motion for Relief in Respect of the Kallon Motion Challenging Defects in the Form of the Indictment, 29 Jan. 08, ("the Prosecution Motion for Relief").

[6] *P v. Sesay et al.,* SCSL-04-15-T965, Order Relating to Kallon Motion Challenging Defects in the Form of the Indictment and Annexes A, B and C, 31 Jan. 08, ("the Order").

[7] *P v. Sesay et al.,* SCSL-04-15-T-970, Kallon Motion on Challenges to the Form of the Indictment and for Reconsideration of Order Rejecting Filing and Imposing Sanctions, 7 Feb. 08, ("the Motion").

[8] *P v. Sesay et al.,* SCSL-04-15-T-990, Prosecution Response to "Kallon Motion on Challenges to the Form of the Indictment and for Reconsideration of Order Rejecting Filing and Imposing Sanctions", 7 Feb. 08., ("the Response").

THE REPLY

(a) Challenges to the Form of the Indictment

(i) The Accused was Not Afforded the Right to Bring Preliminary Objections to Corrected Consolidated Amended Indictment

4. As correctly observed in the Response, Rules 72, 66(A)(i) and 50(B)(ii) of the Rules provide a framework for disclosing materials, with the benefit of consideration of which the Defence is entitled to bring objections to the form of the indictment.
5. The aforementioned rules also embody the fundamental principle that an accused be given the right to confront his indictment. Hence, in the CDF case, this Chamber stated that an accused could suffer "material prejudice" if he is not personally served with an amended indictment and "does not have the opportunity of a further appearance in order to enter a plea on the material changes to the indictment."[9]
6. Where an indictment is amended by the "inclusion of further material facts without amending the counts or charges alleged against the Accused, some of those material facts could readily be characterised as new charges" to which pleas must be entered.[10] Justice Itoe has stressed, in a dissenting opinion, the importance of the indictment and arraignment process as well as the importance of the accused having an opportunity to enter a plea to each and every charge against him.[11]
7. On 15 March 2003, Mr. Kallon made an initial appearance before Justice Itoe and pleaded not guilty to all counts in the indictment with which he was then charged.[12] Thereafter, the Prosecution made several amendments to the Initial Indictment.

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[9] *P v. Fofana*, SCSL-2004-14-AR73, Decision on Amendment of Consolidated Indictment, 16 May 05, at para 7; see also *id.*, para 72, ("[i]f an amended indictment includes new charges, the Accused must be given an opportunity to make an appearance and enter a plea, pursuant to Rule 50(B).")

[10] *P v. Zigiranyirazo*, ICTR-2001-73-PT, Decision on Defence Urgent Motion to Exclude Some Parts of the Prosecution Pre-Trial Brief, 30 Sept, 05, at para 1; quoting *P v. Muvunyi*, ICTR-00-55A-AR73, Decision on Prosecution Interlocutory Appeal Against Trial Chamber II Decision of 23 February 2005, 12 May 05, at para 19.

[11] *P v. Norman et al*, SCSL-04-14-T, Dissenting Opinion of Hon. Judge Benjamin Mutanga Itoe, Presiding Judge, on the Chamber Majority Decision Supported by Hon. Judge Bankole Thompson's Separate But Concurring Opinion, on the Motion Filed by the Second Accused, Moinina Fofana for Service and Arraignment of the Consolidated Indictment and a Second Appearance, 13 Dec. 04, at para 45. Judge Itoe also stated that if a trial proceeds without an arraignment and individual pleas taken on each count of the operative indictment and the accused is convicted, this conviction can be set aside on appellate review- in essence, declared a nullity, *id*, at para 54.

[12] *P v Kallon*, SCSL-03-07-I, Indictment, ("the Initial Indictment").

Significant amongst those was the Amended Consolidated Indictment, filed on 13 May 2004, with which the Accused currently stands charged.[13] On 17 May 2004 the Accused was invited to enter a plea on Count 8 of the said indictment only. The Accused declined, arguing his right to plea to the entire indictment, as amended, on the grounds that substantial amendments had been made with respect to, *inter alia,* the parties, modes of liability, timeframes and crime bases which, it is submitted, are "readily characterised as new charges" and, to which, the Accused was entitled to enter a new plea.

8. The Chamber rejected the argument of the Accused and entered a plea of not guilty in respect of Count 8. The disclosure of supporting materials to the Accused, as required by the aforementioned rules, was never made. Consequently, the Accused was never afforded his right to bring preliminary challenges in respect of the indictment with which he currently stands charged as provided by Rule 50.[14]

9. It is submitted that the accused has indeed suffered the "material prejudice" contemplated by the Chamber in the aforementioned decision in the CDF case, insofar as he has never been permitted the opportunity to confront the indictment with which he is currently charged. Furthermore, mindful of the thus far absent Prosecution disclosure mandated by Rule 50(B)(ii), the limitation period for bringing a preliminary motion has not yet expired. The rule specifically affords the accused the right to bring such a motion having been served with, and with the opportunity to consider, the supporting materials envisaged by Rule 66(A)(i).

(ii) The Response Properly Brings Substantive Objections to the Form of the Indictment

10. The Response seeks to characterise the Motion as an application "seeking the leave of the Trial Chamber to bring a challenge to the form of the Indictment."[15] It is patently obvious that the Motion does not seek leave to object, but rather brings substantive objections before the Chamber. Owing to the fundamental nature of the

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[13] *P v. Sesay et al.*, SCSL-04-15-T-122, Amended Consolidated Indictment, ("the Amended Consolidated Indictment").

[14] Note the dissenting opinion by Justice Itoe which states that "[t]he applicant be rearraigned on all the counts of the amended consolidated indictment," *P v. Sesay et al.*, SCSL-04-15-T, Partially Dissenting Opinion of Hon. Justice Benjamin Mutanga Itoe on the Chamber Majority Decision of the 9th of December, 2004 on the Motion on Issues of Urgent Concern to the Accused Morris Kallon, 18 March 05, at para 51.

[15] The Response, at para 5.

issues raised, the jurisprudence of the *ad hoc* tribunals makes allowance for such motions at this stage of the proceedings, as demonstrated in the Motion.[16]

(iii) Objections to the Form of the Indictment are Timely Made in Interlocutory Motions, Final Submissions and on Appeal

11. In *Kupreskic et al.*, the Appeals Chamber recognized that the "vagueness of the Amended Indictment . . . constitutes neither a minor defect nor a technical imperfection," but amounted to a "fundamental defect" that "seriously infringed" the defendants' "right to prepare their defence," thereby rendering the trial "unfair."[17] Similarly, the Appeals Chamber in *Simic* recognized that: "Any accused before the International Tribunal has a fundamental right to a fair trial, and Chambers are obliged to ensure that this right is not violated."[18]

12. Inadequate notice can result in convictions on the merits being reversed.[19] Similarly, a conviction may be overturned on appeal.[20] Such Appeals Chamber holdings

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[16] See the Motion, at para 5. It should also be noted that paragraph 5 of the Response appears to represent a change of position adopted by the Prosecution when compared to the Prosecution Motion for Relief.[16] The Defence recalls the strong language employed by the Prosecution in derogating the conduct of the Defence team in filing the Previous Defence Motion. It stated that a decision rendered by the *Gbao* Decision was an "obvious authority for dismissing the [Previous Motion]." In light of that, it alleged, *inter alia,* "cynical" and "frivolous" conduct on the part of the Kallon Defence team in simply *filing* the Previous Defence Motion and alleged that the Previous Defence Motion was a "[d]isinegnuous pleading" which represented "an affront to the solemnity of the Court's process."[16]

[17] *P v. Kupreskic et al.*, IT-95-16-A, 23 Oct. 01, at para 122.

[18] See *P v. Simic*, IT-95-9-A, Judgment, 28 Nov. 06, at para 71 and 74, (finding that the "trial was rendered unfair" by inclusion of joint criminal enterprise charges not properly pled); see also *P v. Krnojelac*, IT-97-25-A, Judgment, 17 Sept. 03, at para 117, ("[i]t would contravene the rights of the defence if the Trial Chamber, seised of a valid shifting indictment where the Prosecution has not stated the theory or theories it considered most likely to establish the accused's responsibility within accepted time-limits, chose a theory not expressly pleaded by the Prosecution."); *id.*, at para 130 and 139 (suggesting that inadequate pleading and notice also violates the defendant's right "to have adequate time and facilities for the preparation of his defence."); *P v. Kupreskic et al.*, IT-95-16-A 23 Oct. 01, at para 100 ("the goal of expediency should never be allowed to over-ride the fundamental rights of the accused to a fair trial."); *P v. Ntagerura et al.*, ICTR-99-46-A, Judgment, 7 July 06, at para 28 ("where the failure to give sufficient notice of the legal and factual reasons for the charges against the accused has violated the right to a fair trial, no conviction may result"); *P v. Nahimana, et al.*, ICTR-99-52-A, Decision On The Prosecutor's Motion To Pursue The Oral Request For The Appeals Chamber To Disregard Certain Arguments Made By Counsel For Appellant Barayagwiza At The Appeals Hearing On 17 January 2007, 5 March 07, at para 15 ("the issue of the sufficiency of the Indictment . . directly impacts upon [defendant's] due process right . . . 'to be informed promptly and in detail [. . .] of the nature and cause of the charge against him."), (emphasis added)

[19] *P v. Brima et al*, . SCSL-04-16-T, Judgment, 20 June 07, (the "AFRC Judgment"), at para 47; citing *P v. Kvocka, et al.*, IT-98-30/1-A, Judgment, 28 Feb. 05, at para 33; see also *P v. Kupreskic*, IT-95-16-A, Judgment, 23 Oct. 01, at para 114.

[20] *P v. Kordic,* IT-95-14/2-A, Judgment, 17 Dec. 2004, at para 142; see also *P v. Kupreskic*, IT-95-16-A, Judgment, 23 Oct. 01, at para 114; *P v. Blaskic*, IT-95-14-A, Judgment, 29 July 04, at para 239 ("[t]he Appeals Chamber recognizes, as it did in the *Kupreskic* Appeal Judgement, that in certain circumstances, an

include: the reversal of an improper finding of command responsibility "based on acts which were not charged in the Indictment;"[21] a determination that crimes committed in locations not identified in the Indictment could not stand;[22] affirmation of the Trial Chamber's refusal to consider the extended form of joint criminal enterprise;[23] setting aside command responsibility conviction for acts committed at a location not pled in the indictment;[24] and reversing part of a Trial Chamber conviction that relied on an attack not properly pled in the indictment.[25]

13. In fact, because of the importance of issues of lack of notice and their potential impact upon a defendant's fair trial rights, such issues may even be raised for the first time upon appeal. Furthermore, at least one Appeals Chamber decision goes so far as to suggest that issues of pleading defects are "of such importance" as to be "excepted from the waiver doctrine":

> "Protection of this right [to be informed promptly and in detail of the nature and cause of the charges] is considered to be of such importance that the issue of alleged defects in the indictment falls into the limited category of issues considered to be excepted from the waiver doctrine. . . . [T]he Appeals Chamber finds that the proposed new [arguments] . . . could be of substantial importance to the Appellant's appeal such that their exclusion would lead to a miscarriage of justice."[26] [Emphasis added].

(iv) The Accused is Afforded the Same Rights as if He Were Being Tried Seperately

14. Paragraphs 15 and 17 of the Response seeks to preclude the Accused from making submissions in his defence on the basis of decisions pertaining to objections raised by the co-accused, Sesay[27] and Gbao.[28]

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indictment which fails to plead with sufficient detail an essential aspect of the Prosecution case, may result in the reversal of a conviction."); *P v. Ntakirutimana*, ICTR-96-10-A & ICTR-96-17-A, Judgment, 13 Dec. 13, 04 at para 27; and *Niyitegeka v. Prosecutor*, ICTR-96-14-A, Judgment, 9 July 04 at para 195.

[21] *P v. Kordic et al.*, IT-95-14/2-A, Judgment, 17 Dec. 04, at para 1027 (as to Defendant Cerkez); see also *P v. Kvocka, et al.*, IT-98-30/1, Judgment, 28 Feb. 05, at para 33.

[22] *P v. Kordic et al.*, IT-97-14/2-A, Judgment, 17 Dec. 2004, at para 1028 (as to Defendant Kordic).

[23] *P v. Krnojelac*, IT-97-25-A, Judgment, 17 Sept. 03, at para 142-145.

[24] *P v. Ntagerura et al.*, ICTR-99-46-A, Judgment, 7 July 06, at para 165.

[25] *Niyitegeka v. Prosecutor*, No. ICTR-96-14-A, Judgment, 9 July 04, at para 223.

[26] *P v. Nahimana et al.*, ICTR-99-52-A, Decision On The Prosecutor's Motion To Pursue The Oral Request For The Appeals Chamber To Disregard Certain Arguments Made By Counsel For Appellant Barayagwiza At The Appeals Hearing On 17 January 2007, 5 March 07, at para 5; see also *Kamuhanda v. Prosecutor*, ICTR-99-54-A, Judgment, 19 Sept. 05, at para 21, (Issues of pleading defects may even be raised "proprio motu" upon appeal.)

[27] *P v. Sesay.*, SCSL-03-05-PT-80, Decision and Order on Defence Preliminary Motion for Defects in the Form of the Indictment, 13 Oct. 03, ("the *Sesay* Decision").

15. Rule 82(A) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, (the "Rules"), states that:

> "In joint trials, each accused shall be afforded the same rights as if he were being tried separately."

16. Accordingly, the right of an accused shall not be compromised by the fact that he is being tried jointly. The Prosecution cites the *Gbao* and the *Sesay* Decisions as authority for dismissing the Motion. In the *Gbao* Decision, the Chamber stated as follows:

> "*in all the circumstances* it would be more appropriate for the Trial Chamber to address any objections to the form of the Indictment at the end of the case rather than during the course of the trial." [Emphasis added]

17. In making this determination the Chamber did not cite any rule of law nor, it is respectfully submitted, did it purport to create one. Rather it made a factual finding, based on all the circumstances, that it would be more appropriate to defer the determination of such objections until the end of the trial.

18. Whilst recognising that the relevant *procedural* circumstances petaining to the cases of all three co-accused may be similar, it is submitted that an accused, being tried jointly, cannot be denied the right to raise objections on the basis that a co-accused had previously recorded similar objections, notwithstanding the outcome of such objections. A finding to the contrary would violate Rule 82(A). The Prosecution assertion that the *Gbao* Decision and *Sesay* Decision represent authority over the Motion does indeed offend Rule 82(A), as the basis of the objections raised in the Response would not have existed had Mr Kallon been tried seperately.[29]

19. Moreover, appealing decisions such as the *Gbao* Decision and the *Sesay* Decisions is exclusively the perogative of the moving party. The theory presented by the Prosecution Motion for Relief would have the other two co-accused bound by decisions, to which they were not a party and from which no avenue of appeal existed.

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[28] *P v. Sesay et al.*, SCSL-04-15-T, Decision on Gbao Request for Leave to Raise Objections to the Form of the Indictment, 17 Jan. 08, ("the *Gbao* Decision").

[29] Furthermore, it should be noted that, notwithstanding the cogency of the substantive arguments made in the Motion, the pertinence of the right *in se* to raise objections to the form of the indictment at this stage of the proceedings, even if they are denied, was recognised by the Chamber in the *Gbao* Decision: "the fact that the Defence sought to raise objections at this stage *ought to be taken into account* by the Trial Chamber when it ultimately considers the issue." [Emphasis added]

(v) AFRC Judgment Represents the Current State of the Jurisprudence

20. Paragraph 16 of the Response contends that "there is no point in allowing a challenge to the form of the Indictment to be brought" in light of pending judgment of the Appeals Chamber in *Brima et al.* The Trial Chamber judgment in the *Brima et al.*, represents the current state of the law in the area. The aforementioned position adopted by the Prosecution is therefore misconceived.

(b) Request for Reconsideration of Order Rejecting Filing

21. Paragraph 4 of the Response erroneously states that the Defence advances no basis for reconsideration of the order rejecting filing. As stated in paragraph 3 of the Motion, the Accused moved the Trial Chamber to reconsider the order rejecting the filing of the Previous Motion on the basis that "he has not been adequately afforded the right to make submissions in his defence, as the interests of a fair trial would dictate." The Accused cited Article 17(2)[30] as the authority on which it relies, to the extent that not being "adequately afforded the right to make submissions in his defence" compromises his right to a fair trial.[31]

22. Paragraph 4 of the Response also erroneously observes that the Motion suggests "in paragraph 4...[that] the power of a Trial Chamber to order an overlength motion to be removed from the record...[is] limited to cases where the filing of the motion is found to constitute conduct of the type to which Rule 46(C) applies." Nowhere does the Motion suggest that. Paragraph 4 does not make submission in relation to the order rejecting filing, only in relation to the order imposing sanctions.

23. Thus, the Response appears to object to the motion for reconsideration of the order rejecting filing on two grounds. Both grounds are based on a mischaracterisation of the Motion on its plain and literal meaning. Therefore, the Prosecution objection to this aspect of the Motion is without basis.

(c) Reconsideration of the Order Imposing Sanctions

24. Paragraph 21 of the Response erroneously asserts that the Order "is not an order

[30] See Art. 17(2) of the Statute which guarantees, *inter alia,* that "[t]he accused shall be entitled to a fair and public hearing."
[31] The Motion, at para 3.

relating to the Prosecution [Motion for Relief]."[32] Clearly it is not the title of a document which accurately informs the parties of the basis of a decision, but the materials cited therein. The Order cites the Prosecution Motion for Relief as forming, partially at least, the basis on which the order was determined.[33] No Defence pleadings in response were cited, as none were permitted to be made. The Prosecution's assertion, in this respect, is based on misguided speculation. Mindful of that, the Defence maintains that having decided to consider the Prosecution Motion it was unfair to impose sanctions in this manner without affording the Defence the opportunity to be heard in response. The Defence cannot over emphasise the maxim that justice should not only be done but also be seen to be done.

25. The Prosecution appears to accept that counsel for the Kallon Defence team should be paid for the work associated with the Previous Motion, to the extent that it had already been undertaken in preparation for the Application[34] to that extent, at least the Chamber should reconsider its decision.

26. Paragraph 29 of the Response cites footnote 8 of the Motion and argues that the jurisprudence referred to therein "do[es] not support the proposition that the Trial Chamber must make an express finding of a 'malicious intent' before imposing sanctions under Rule 46(C)." As stated in footnote 8, the cases referred to all indicate that a much greater level of impropriety should be found in the conduct of a sanctioned party to appropriately invoke such a sanction. It cannot be said that the Previous Motion was "manifestly ill-founded", as found in *Brdanin*, as the Previous Motion dealt with matters of such fundamental importance; nor can it be said that any of the parties' rights have been "egregiously violated" as a result of the Previous Motion, as was found in *Nikolic;* neither was any abusive or insulting language employed therein, as was the case in *Seselj.* Whilst it is true that the description of the conduct which is to be sanctioned does not have to match exactly that which has been sanctioned in the past, it is abundantly clear that the conduct complained of in previous decisions is flagrantly more deserving of sanctions than the conduct under

[32] See also, the Response, at para 22, ("the Trial Chamber did not rule on the Prosecution Motion.").
[33] The Order, at pg 2, ("**HAVING RECEIVED** the Urgent Motion for Relief of the Kallon Motion Challenging Defences in the Form of the Indictment filed by the Office of the Prosecutor on 29th of January 2008").
[34] The Response, at para 25, ("[a]ssuming counsel were paid for their work on the draft motion attached to the...[Application], there would be no reason for them to submit an account for...[Previous] Motion.").

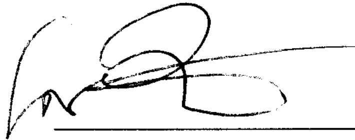
consideration in the Order, namely, the sufficiency of charges and the right of the Accused to a fair trial, which pertain to the integrity of the Court's process.

CONCLUSION

27. The Defence notes that the Prosecution have made no objections to the substantive challenges brought within the Motion. It is further noted the Prosecution has invited interlocutory objections to the form of the indictment[35] and so suffers no prejudice as a result of the timing of the Motion. It is submitted that the Accused will suffer irreparable damage conducting his defence case without knowing the nature of the case which he is facing. Thus the issues raised in the Motion should be considered now.
28. In light of the foregoing it is submitted that the Motion be granted.

DONE in Freetown on this 20th day of February, 2008.

For Defendant **KALLON,**



Chief Charles A. Taku

[35] See *P v. Sesay et al.*,SCSL-04-15-T, Prosecution Notice Concerning Joint Criminal Enterprise and Raising Defects in the Indictment, 3 Aug. 07, at para 12; and *P v. Sesay et al.*, SCSL 04-15-T, Prosecution Response to Gbao-Request for Leave to Raise Objections to the Form of the Indictment, 31 Aug. 07, at para 10.

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INDEX OF AUTHORITIES

(a) Statute and Rules and Practice Direction

1. Statute of the Special Court for Sierra Leone
2. Rules of Procedure and Evidence of the Special Court for Sierra Leone
3. The Practice Direction on Filing Documents Before the Special Court for Sierra Leone

(b) Judgments and Decisions

1. *P v. Sesay et al.*, SCSL-04-15-T-965, Order Relating to Kallon Motion Challenging Defects in the Form of the Indictment and Annexes A, B and C, 31 Jan. 08.
2. *P v. Sesay et al.*, SCSL-04-15-T-944, Decision on Gbao Request for Leave to Raise Objections to the Form of the Indictment, 17 Jan. 08.
3. *P v. Sesay et al.*, SCSL-04-15-T-928, Decision on Kallon Application for Leave to Make a Motion in Excess of the Page Limit, 14 Dec. 07.
4. *P v. Nahimana, et al.*, ICTR-99-52-A, Decision On The Prosecutor's Motion To Pursue The Oral Request For The Appeals Chamber To Disregard Certain Arguments Made By Counsel For Appellant Barayagwiza At The Appeals Hearing On 17 January 2007, 5 March 07, (available at http://69.94.11.53/default.htm).
5. *P v. Brima et al*, SCSL-04-16-T-613, Judgment, 20 June 07.
6. *P v. Simic*, IT-95-9-A, Judgment, 28 Nov. 06, (available at http://www.un.org/icty/simic/appeal/judgement-e/sim-acjud061128e.pdf).
7. *P v. Ntagerura et al.*, ICTR-99-46-A, Judgment, 7 July 06, (available at http://69.94.11.53/default.htm).
8. *P v. Zigiranyirazo,* ICTR-2001-73-PT, Decision on Defence Urgent Motion to Exclude Some Parts of the Prosecution Pre-Trial Brief, 30 Sept 05, (available at http://69.94.11.53/default.htm).
9. *Kamuhanda v. Prosecutor*, ICTR-99-54-A, Judgment, 19 Sept. 05, (available at http://69.94.11.53/default.htm).
10. *P v. Fofana*, SCSL-2004-14-AR73, Decision on Amendment of Consolidated Indictment, 16 May 05.

11. *P v. Muvunyi*, ICTR-00-55A-AR73, Decision on Prosecution Interlocutory Appeal Against Trial Chamber II Decision of 23 February 2005, 12 May 05, (available at http://69.94.11.53/default.htm).
12. *P v. Sesay et al.*, SCSL-04-15-T-342, Partially Dissenting Opinion of Hon. Justice Benjamin Mutanga Itoe on the Chamber Majority Decision of the 9th of December, 2004 on the Motion on Issues of Urgent Concern to the Accused Morris Kallon, 18 March 05
13. *P v. Kvocka, et al.*, IT-98-30/1-A, Judgment, 28 Feb. 05, (available at http://www.un.org/icty/kvocka/appeal/judgement/kvo-aj050228e.pdf).
14. *P v. Kordic*, IT-95-14/2-A, Judgment, 17 Dec. 04, (available at http://www.un.org/icty/kordic/appeal/judgement/cer-aj041217e.pdf).
15. *P v. Ntakirutimana*, ICTR-96-10-A & ICTR-96-17-A, Judgment, 13 Dec. 04, (available at http://69.94.11.53/default.htm).
16. *P v. Norman et al*, SCSL-04-14-T-309, Dissenting Opinion of Hon. Judge Benjamin Mutanga Itoe, Presiding Judge, on the Chamber Majority Decision Supported by Hon. Judge Bankole Thompson's Separate But Concurring Opinion, on the Motion Filed by the Second Accused, Moinina Fofana for Service and Arraignment of the Consolidated Indictment and a Second Appearance, 13 Dec. 04
17. *P v. Blaskic*, IT-95-14-A, Judgment, 29 July 04, (available at http://www.un.org/icty/blaskic/appeal/judgement/bla-aj040729e.pdf).
18. *Niyitegeka v. Prosecutor*, ICTR-96-14-A, Judgment, 9 July 04, (available at http://69.94.11.53/default.htm).
19. *P v. Sesay.*, SCSL-03-05-PT-80, Decision and Order on Defence Preliminary Motion for Defects in the Form of the Indictment, 13 Oct. 03
20. *P v. Krnojelac*, IT-97-25-A, Judgment, 17 Sept. 03, (available at http://www.un.org/icty/krnojelac/appeal/judgement/krn-aj030917e.pdf).
21. *P v. Kupreskic et al.*, IT-95-16-A, Judgment, 23 Oct. 01, (available at http://www.un.org/icty/kupreskic/appeal/judgement/kup-aj011023e.pdf).

(c) Motions and Responses

1. *P v. Sesay et al.*, SCSL-04-15-T-990, Prosecution Response to "Kallon Motion on

Challenges to the Form of the Indictment and for Reconsideration of Order Rejecting Filing and Imposing Sanctions", 15 Feb. 08.

2. *P v. Sesay et al.*, SCSL-04-15-T-970, Kallon Motion on Challenges to the Form of the Indictment and for Reconsideration of Order Rejecting Filing and Imposing Sanctions, 7 Feb. 08
3. *P v. Sesay et al.*, SCSL-04-15-T-961, Motion for Relief in Respect of the Kallon Motion Challenging Defects in the Form of the Indictment, 29 Jan. 08.
4. *P v. Sesay et al.*, SCSL-04-15-T-960, Kallon Motion Challenging Defects in the Form of the Indictment with Annexes A, B and C, 28 Jan. 08, (this document was subsequently struck from the court records, pursuant to a order of the court).
5. *P v. Sesay et al.*, SCSL-04-15-T-928, Kallon Application for Leave to Make a Motion in Excess of the Page Limit, 4 Dec. 07.
6. *P v. Sesay et al.*, SCSL 04-15-T-814, Prosecution Response to Gbao-Request for Leave to Raise Objections to the Form of the Indictment, 31 Aug. 07.
7. *P v. Sesay et al.*,SCSL-04-15-T-812, Prosecution Notice Concerning Joint Criminal Enterprise and Raising Defects in the Indictment, 3 Aug. 07.

(d) Pre-Trial Documents

1. *P v. Sesay et al.*, SCSL-04-15-PT-619, Corrected Amended Consolidated Indictment.
2. *P v. Sesay et al.*, SCSL-04-15-T-122, Amended Consolidated Indictment.
3. *P v Kallon*, SCSL-03-07-I, Indictment.

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