402)

SCSL-03-01-T
(14513 - 14526)

14513

THE SPECIAL COURT FOR SIERRA LEONE

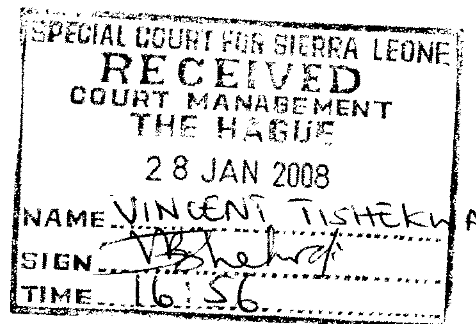
In Trial Chamber II

Before: Justice Teresa Doherty, Presiding
Justice Richard Lussick
Justice Julia Sebutinde
Justice El Hadji Malick Sow, Alternate

Registrar: Mr. Herman von Hebel

Date: 28 January 2008

Case No.: SCSL-2003-01-T



THE PROSECUTOR

–v–

CHARLES GHANKAY TAYLOR

PUBLIC

DEFENCE APPLICATION TO EXCLUDE THE EVIDENCE OF PROPOSED PROSECUTION EXPERT WITNESS CORINNE DUFKA OR, IN THE ALTERNATIVE, TO LIMIT ITS SCOPE

Office of the Prosecutor
Ms. Brenda Hollis
Mr. Nicholas Koumjian
Mr. Mohamed Bangura

Counsel for Charles G. Taylor
Mr. Courtenay Griffiths Q.C.
Mr. Terry Munyard
Mr. Andrew Cayley
Mr. Morris Anyah

I. INTRODUCTION

1. The Defence seeks through this Application to exclude the evidence of Corinne Dufka, who was called by the Prosecution as an expert witness. The Defence had filed a formal objection to her evidence as expert evidence under Rule 94 *bis* B (ii) on 29 May 2007.[1]
2. The Accused objects to the proposed "expert" evidence of Ms Dufka on five grounds. Firstly, the witness is not an expert as such and her evidence does not qualify as expert evidence. Secondly, the objectivity and impartiality of the witness as an expert is impugned by her previous role as a member of the Prosecution team and her stated position on the guilt of the Accused . Thirdly, even if her testimony were to pass as expert evidence, her evidence is not necessary to assist the Trial Chamber to understand the context of the case and the issues in dispute. Fourthly, some of her evidence relates to issues of fact which go to the guilt of the Accused in this case and thereby usurp the role of the Trial Chamber, or they go beyond the scope of the Indictment both in time and geographical extent. Fifthly, even if the witness could be classified as an expert her evidence undermines the Accused's fundamental right to a fair trial, in that it consists of hearsay evidence for the most part and thereby deprives him of the opportunity of cross-examining the witnesses against him.

II. HISTORICAL BACKGROUND

3. On the 15th May 2007, the Prosecution filed the expert report of Corrine Dufka under Rule 94*bis* of the Rules.[2] In terms of the disclosure, Ms. Dufka's area of expertise was going to cover events in Liberia and Sierra Leone leading to and during the ongoing conflict, including human rights violations. The Report was supposed to give an overview of human rights violations in Sierra Leone for the period between 1996 through 2002. Furthermore, the witness was supposed to convey through her testimony, facts relevant to the Indictment regarding her various trips to West Africa.

4. On the 21st of January 2008, when Ms. Dufka commenced giving evidence at trial before the Trial Chamber, the Defence objected to her being called as an expert to give expert evidence on the grounds set out in paragraph 2.above. After considering the oral

[1] *Prosecutor v. Taylor,* SCSL-03-01-PT-267, Notice under Rule 94*bis* (B), 29 May 2007 (hereinafter "Notice").
[2] *Prosecutor v. Taylor,* SCSL-03-01-PT-238, Prosecution Filing of Expert Report Pursuant to Rule 94*bis*, 15 May 2007. The Report was re-filed on 4 June 2007, see, *Prosecutor v. Taylor,* SCSL-03-01-PT-278, Prosecution Filing of Expert Report Pursuant to Rule 94*bis*, dated 1 June 2007 and filed on 4 June 2007.

submissions of the parties, the Trial Chamber ruled that the objection was premature and allowed the witness to proceed with her evidence.

5. The Defence repeated its objections at the conclusion of her testimony on 22 January 2008, and invited the Trial Chamber to receive written submissions from the parties on the issue. The Chamber acceded and subsequently ordered the parties to prepare and file written submissions on the issue.[3] The witness' evidence relied on her Report to the Court in this case and on a number of other documents annexed or exhibited to it. These have not yet been received into evidence as part of her testimony or exhibits pending the court's ruling on this motion. It is as a consequence of the said Order by the Trial Chamber that the Defence brings forth this Application.

III. APPLICABLE LEGAL PRINCIPLES

6. This Application is being brought pursuant to Rules 89 and 94*bis* of the Rules of Procedure and Evidence and is ultimately grounded in the principles which are enshrined by Article 17 of the Statute of the Special Court. Where relevant and appropriate, jurisprudence from domestic national jurisdictions have been relied upon in support of arguments which are advanced herein.

7. An expert owes his or her primary duty to the court and not to the party calling them. The expert is in the privileged position of being allowed to give opinion evidence and the root of that privilege lies in his or her objectivity. If an expert is, or may be perceived to be, an advocate of one parties to the proceedings, his or her objectivity is likely to be compromised and he or she cannot be said to come within the recognised category of expert witness.[4] Furthermore, the role of an expert is to assist the finders of fact in respect of matters that are outside the scope of their ordinary experience and of a technical nature not in common knowledge.[5]

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[3] *Prosecutor v. Taylor,* SCSL-03-01-T, Transcript of Proceedings, 22 January 2008, page 1945, lines 19 – 26.

[4] *Prosecutor v Akayesu*, No. ICTR-96-4-T, *Judgment* (2 September 1998) at para. 26, referring to *Prosecutor v Akayesu*, No. ICTR-96-4-T, Decision on Defence Motion for the Appearance of an Accused as an Expert Witness, 9 March 1998. *Prosecutor v Gacumbitsi,* No. ICTR-2001-64-T, *Decision on Expert Witnesses for the Defence, Rules 54, 73, 89 and 94 bis of the Rules of Procedure and Evidence,*11 November 2003, at para 8. See, also, *Prosecutor v Brima et al*, No. SCSL-04-16-T, Separate and Concurring Opinion of Justice Doherty on Prosecution Request for leave to Call an Additional Witness Pursuant to Rule 73 bis (E) and Joint Defence Application to Exclude the Expert Evidence of Zainab Hawa *Bangura or Alternatively to Cross Examine her Pursuant to Rule 94 bis,* 21 October 2005.

[5] See, *Prosecutor v. Pavle Strugar*, IT-01-42-PT, *Decision on the defence motion to oppose admission of an expert report pursuant to rule 94 bis, Decision on the defence motion to oppose admission of an expert report pursuant to rule 94 bis*, 12 December 2003, in which the Trial Chamber adopted the following definition of an expert witness,

8. The requirement that an expert must be impartial is well-established in the jurisprudence of international criminal tribunals, including that of the Special Court. In *Akayesu*, the court held that "in order to be entitled to appear, an expert witness must not only be a recognised expert in his field, but must also be impartial in the case.'[6] In *Gacumbitsi*, the Trial Chamber was clear that "in contributing special knowledge to assist the Chamber, the expert must do so with the utmost neutrality and with scientific objectivity."[7] In *Gacumbitsi*, the Court further observed that an expert is not there for a particular party but only to assist the court.[8] Additionally, in *Brima et al.* this Trial Chamber was clear that, "[a]n expert does not take the side of any party. The expert is to assist the Tribunal of fact.[9]

9. The jurisprudence of International Tribunals is inconsistent in respect of the definition of an expert witness and expert evidence; in some cases it applies and upholds principles which have been settled law in both domestic and international jurisprudence for many years, but there are some authorities which weaken and dilute these principles. The more universal test, which derives from both domestic and international tribunals, is as follows:

(i) the testimony of an expert is needed in order to enlighten the court on specific issues of a technical nature requiring special knowledge in a specific field

(ii) The Trial Chamber has a discretion to hear an expert on a determined issue;

(iii) the prospective witness is an expert on that issue;

(iv) the witness's statement or report is reliable;

(v) the statement or report is relevant and of probative value;

(vi) the substance of the statement or report falls within the expertise of the witness.[10]

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based on the case law of this Tribunal, namely "A person whom by virtue of some specialised knowledge, skill or training can assist the trier of fact to understand or determine an issue in dispute."

[6] *Prosecutor v Akayesu*, No. ICTR-96-4-T, *Judgment* (2 September 1998) at para. 26, referring to *Prosecutor v Akayesu*, No. ICTR-96-4-T, Decision on Defence Motion for the Appearance of an Accused as an Expert Witness, 9 March 1998

[7] *Prosecutor v Gacumbitsi*, No. ICTR-2001-64-T, *Decision on Expert Witnesses for the Defence, Rules 54, 73, 89 and 94 bis of the Rules of Procedure and Evidence*,11 November 2003, at para 8.

[8] Ibid.

[9] *Prosecutor v Brima et al*, No. SCSL-04-16-T, Separate and Concurring Opinion of Justice Doherty on Prosecution Request for leave to Call an Additional Witness Pursuant to Rule 73*bis* (E) and Joint Defence Application to Exclude the Expert Evidence of Zainab Hawa *Bangura or Alternatively to Cross Examine her Pursuant to Rule 94 bis* (21 October 2005)

[10] *Prosecutor v Laurent Semanza* ICTR-97-20-A (AC) 20 May 2005 paras 303-4; *Prosecutor v Jean-Paul Akayesu* ICTR-96-4-T (Decision on Defence Motion for Appearance of an Accused as an Expert Witness (TC) 9 March 1998) ; *Prosecutor v Edouard Karemera* and others ICTR -98-44-T (Decision on Prosecution Prospective Expert

10. Furthermore, to be an expert the witness must:

(vii) possess relevant specialised knowledge acquired through education, expertise or training in their proposed field of expertise.[11]

(viii) to be an expert the witness must be impartial and independent of the parties including the party who calls him or her.[12]

(ix) the court must be convinced that the expert evidence could assist it in understanding the evidence presented or in determining a fact in issue (provided it does not go to the ultimate issues for the court to decide).[13] Additionally, the fact that a person has been accepted as an expert in other trials does not automatically qualify him or her as an expert witness since each case turns on its own special facts.[14]

11. There have been a number of authorities of International Tribunals, which are not reflected in any domestic jurisprudence of which we are aware, which apply a lower standard to both expert witnesses and their testimony than is set out in the principles above. The test they apply is that an expert witness is "a person who by virtue of some specialised knowledge, skill or training can assist the trier of fact to understand or determine an issue in dispute." [15]

12. It has been said in some authorities applying this lower standard that concerns relating to an expert witness's independence are usually considered as matters of weight rather than admissibility and can be addressed in cross-examination of the witness.[16]

13. It is notable that none of the above decisions is a decision of an Appeals Chamber and in none of the above cases was there any consideration of or reference to the authorities we

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Witnesses Alison DesForges, Andre Guichaoua and Binaifer Nowrojee (TC) 25 October 2007; *Prosecutor v Milomir Stakic* IT-97-24-A Judgement (AC) 22 March 2006, para 164.]

[11] *Prosecutor v Jean-Paul Akayesu* ICTR-96-4-T (Decision on Defence Motion for Appearance of an Accused as an Expert Witness (TC) 9 March 1998)

[12] *Prosecutor v Laurent Semanza* ICTR-97-20-A (AC) 20 May 2005 paras 303-4;*Prosecutor v Gacumbitsi,* No. ICTR-2001-64-T, *Decision on Expert Witnesses for the Defence, Rules 54, 73, 89 and 94 bis of the Rules of Procedure and Evidence* (11 November 2003) at para 32

[13] Ibid.

[14] *Prosecutor v Gacumbitsi,* No. ICTR-2001-64-T, *Decision on Expert Witnesses for the Defence, Rules 54, 73, 89 and 94 bis of the Rules of Procedure and Evidence* (11 November 2003) at para 32

[15] *Prosecutor v Stanislav Galic* IT-98-29-T Decision concerning… 3 July 2002; *Prosecutor v Stanislav Galic* IT-98-29-T Decision on …27 January 2003; *Prosecutor v Radoslav Brdanin* IT-99-36-T Decision on Prosecution's Submission of Statement of Expert Witness Ewan Brown 3 June 2003; *Prosecutor v Alex Tamba Brima and others* SCSL-04-16-T Decision on Prosecution Request to call an additional witness (Zainab Hawa Bangura) and on Joint Defence Notice to inform the Trial Chamber of its Position vis-à-vis the Proposed Expert Witness, 5 August 2005

[16] *Brdanin* (above); *Prosecutor v Slobodan Milosevic* IT-02-54-T, 9 Seeptember 2002, Transcript p 9966; *Prosecutor v Pavle Strugar* IT-01-42-PT Decision on Defence Motions to Oppose Admission of Prosecution Expert Reports Pursuant to Rule 94 *bis* 1 April 2004; *Prosecutor v Milan Milutinovic and others* IT-05-87-T Decision on Ojdanic Motion to Exclude Testimony of Patrick Ball 15 February 2007; *Prosecutor v Ljube Boskoski and Johan Tarculovski* IT-04-82-T Decision on Motion to Exclude Prosecution's Proposed Evidence of Expert Bezruchenko and his Report 17 May 2007

have cited above as setting out a higher standard in relation to the admission of expert evidence. The Defence submit that there is a sufficient body of jurisprudence, both domestic and international, on this subject to warrant the general application of the higher standard to which we have adverted to the admission into evidence of expert witnesses. In particular we submit that the more serious the charges against an Accused, the stricter the standard of admissibility should be.

A. Reliability

14. The use of alleged experts to put in evidence reports of hearsay in the form of summarising the testimony of victims and witnesses raises a further important issue as to the *admissibility* rather than merely the weight of such evidence. It has been held that the admissibility of such reports turns on a number of factors including the reliability of the testimony of the witnesses and victims as opposed to the reliability of the evidence-gathering process by the proposed "expert" witness.[17]

15. The use of such reports is governed by Rule 92 *bis* which allows such evidence in provided it does not go to the proof of acts and conduct of the Accused, it is relevant and its reliability is susceptible of conformation. That last condition goes to the testimony of the victims and witnesses themselves, not to the process of gathering their testimony. It has been held that where a person who seeks to put the report of anonymous victims and witnesses in evidence is not the author of the report, or has contributed part of the report's contents but cannot indicate which parts are his or hers, that does not satisfy the requirement of reliability – and therefore admissibility.[18] In this regard it is to be noted that the Trial Chamber has already rejected attempts by the Prosecution in this case to admit some of the evidence of this potential witness by way of Judicial Notice or Alternative Proof of Facts under Rules 94 and 92 *bis*.

IV. ARGUMENT

A. Expert Evidence

16. The potential witness, Ms Dufka, is a qualified social worker who has worked in that capacity and also as a photo journalist. Since 1999 she has been employed as a researcher for Human Rights Watch (HRW) based for the most part in West Africa. She also spent a year from October 2002 to October 2003 working for the office of The Prosecutor of the Special Court for Sierra Leone which involved her interviewing at least

[17] *Prosecutor v Milan Milutinovic and others* IT-05-87-T Decision on Evidence Tendered through Sandra Mitchell and Frederick Abrahams, 1September 2006.
[18] Ibid.

18 witnesses in the present case, as well as many others, some of whom may yet turn out to be witnesses in the present case but whose interviewer is at present unknown (see below).

17. Ms. Dufka has no qualifications in anthropology, sociology, history, African history or any other discipline directly relevant to the issues in this case. She had been working as a researcher for HRW for some three years by the time she worked for the OTP in this Court. During those years she had interviewed several hundred victims and witnesses concerning atrocities committed during the civil war in Sierra Leone. She could not be precise as to how many such persons she had interviewed because her working methods do not record accurately the numbers interviewed. See, Transcript of Proceedings, 22 January 2008 page 1871.

18. The potential witness has worked since 2003 and is now in charge of all research *and advocacy efforts* for HRW on West African issues covering all West African countries, See Transcript of Proceedings, 21 January 2008 page 1745 lines 15-21, page1750 lines 15-21. She herself has produced one report for HRW relating to the conflict in Sierra Leone. See, "Getting Away with Murder, Mutilation and Rape", MFI 7] and also a report based on 60 interviews relating to the use of what she terms "Regional Warriors" which discusses the use of young men (for the most part) who move across the regions' borders seeing war as an economic opportunity. (See, "West Africa: Youth Poverty and Blood" summary page 1 MFI 6.)

19. Another HRW report on sexual violence in the Sierra Leone conflict relies in part on testimonies collected by this potential witness but it is not clear which parts of the report are based on her collected testimonies and which are not [See "We'll Kill you if you Cry" MFI 10 and her evidence on 22 January 2008, page 1907]. There is also a letter and short report to the United Nations Secretary General about human rights abuses by all sides to the Sierra Leone conflict written in November 2000 to which the witness contributed [See ref to "Evidence of Atrocities in Sierra Leone" MFI 9]

20. The potential witness also jointly wrote a HRW report on Liberia which is principally concerned with the Liberian conflict from the year 2001 and more particularly from February 2002 [See ref to "Back to the Brink : War Crimes by Liberian Government and Rebels" MFI 3] . She wrote a report in November 2002 on Guinea, in which she looked at the human rights issues concerning refugees from the Liberian conflict living in

Guinea, and virtually all of the report is about events in 2002 [See ref to "Liberian Refugees in Guinea" MFI 4.

21. There are other documents exhibited by this potential witness which consist for the most part of short press releases or documents, including some that she had no involvement in producing, such as the first HRW report on Sierra Leone [See ref to "Sowing Terror" MFI 2] and photographs [See re Two Photographs taken by Corinne Dufka MFI 12 A and B] and a Letter with Testimonies on Deteriorating Human Rights in Liberia in 2002 [MFI 5].

22. The body of material produced by the potential witness does not constitute expertise as such. It is the product of collecting testimonies over a period of a few months at best and does not constitute specialist knowledge beyond the capability of the court to understand without the benefit of a specially qualified potential witness's testimony. Indeed, it duplicates testimony which the prosecution in this case have made clear they intend to put before the court in any event, in the form of live and read testimony from the actual victims or witnesses themselves.

23. This evidence is not specialist evidence, it is not technical evidence, and indeed it is ultimately the same in character as the work of the investigators employed by the OTP, including, of course, the potential witness herself. The fact that she was so employed underscores the real nature of the proposed "expert evidence", namely ordinary factual evidence overlaid with a campaigning message. In short, as she accepted in her evidence, it is part of the advocacy work of HRW in *documenting* human rights abuses [See Transcript 22 January 2008 page 1881, lines 6 - 27]

B. Impartiality of Expert Witnesses

24. It is axiomatic in all jurisdictions of which we are aware that an expert witness owes his or her duty to the court and not to the party calling him or her. In other words, the expert, to qualify as such, must be independent and impartial *and be seen to be independent and impartial.* Justice, in the universally-known words of Lord Hewitt, must not only be done but be seen to be done. Even though there are instances in the International Tribunals of an "expert witness" having worked in some capacity for the prosecuting authority, they are usually restricted to witnesses of a technical or scientific nature who have genuinely specialist knowledge with which the court itself could not be familiar in the ordinary way

and their evidence consists of something very different from the gathering together and reproducing factual testimony of other witnesses.

25. In this case the fact that this potential witness has worked as an investigator for the OTP, interviewing a substantial number of witnesses who are giving evidence in this very trial strikes at the very heart of her impartiality - and even more so at any appearance of impartiality. But it goes further because even at this early stage of the trial it appears that she has erred in the account she took from the only witness whom she interviewed who has testified so far. The potential witness conducted an interview with Witness TF1 276 and produced *her* summary of it. In that summary the witness is described by Ms Dufka as saying that President Samuel Doe was murdered in 1990 by troops loyal to Charles Taylor. In his evidence Witness TF1 276 denied telling her that and indeed it is very unlikely that anyone in Liberia in 1990 would have subscribed to such an account as it was known that it was a rival group led by Prince Johnson who murdered Doe. [See 23 January 2008 pages 2149, line 20 – page 2150, line 4]

26. That the potential witness is patently not impartial in this case is evident not just from her work for the OTP but from her own comments and views as to the Accused's guilt. In her testimony she admitted having described the Accused publicly in terms suggestive of his guilt and she finally admitted, after some prevarication, that she had formed the view that had in fact committed the crimes he is accused of. [See 22 January 2008 pages 1887 line 21 – page 1890 line 26]. To admit the evidence of such a person as an expert would undermine the integrity of the trial process and therefore the authority of the court.

C. Evidence not necessary to assist court

27. Even if the proposed "expert " evidence of Ms Dufka is capable of falling within the definition of "expert" evidence, which the Defence do not accept, it is further submitted that the material she seeks to put before the court falls into precisely the same category of factual evidence which the prosecution propose to call from actual victims and witnesses themselves (and have to some extent already called) and it is unnecessary to put further material of the same type but through her as an expert plus testimony of anonymous provenance before the court. In the Kamerera case [See above] the court had before it proposed testimony from several experts whose expertise was not in dispute, but since the proposed evidence fell into the category of factual evidence which the prosecution were calling in any event, it was held that factual questions do not require expert assistance [See: Kamerera and others paras. 18-25, 28-30, and 33-35]

D. Ultimate Issues and Beyond Scope of Indictment

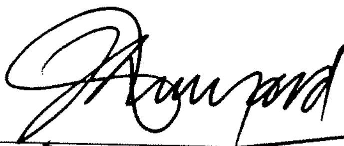
28. There is material in Ms Dufka's own report to the court {See, MFI 1 } and the other written materials she seeks to put in evidence which, we submit, goes to the ultimate issue the court has to decide and is thereby inadmissible. Also she sought to put in evidence in her report and the other documents she referred to material beyond the scope of the Indictment. Attached hereto is **Annex 1** referring to the relevant parts of the documents where we say they deal with the ultimate issue and where they go beyond the scope of the Indictment in time or place.

E. Violation of the right to a Fair Trial – Hearsay

29 The evidence of the potential witness also constitutes a violation of the fundamental right of the Accused to a fair trial laid down in Article 17 (4)(c) of the Statute of the Special Court which guarantees that he can have witnesses examined on his behalf. By seeking to produce before the court the collected testimonies of a number of witnesses and victims in the form of the HRW reports and other documents produced by this potential witness the Accused is denied the opportunity of cross-examining any of those witnesses. Indeed, Ms Dufka was at pains to point out that the testimonies she refers to in the various reports are anonymous because of the need to guarantee the confidentiality of the witnesses. That process is inherently inimical to a fair trial and a gross abuse of the rights of the Accused under the founding instrument of the court. He neither knows who his accusers are nor is able to test their evidence by having them cross-examined.

30. Furthermore, the reliability of this evidence, if admitted, is not susceptible of confirmation. We cannot know who the interviewees are in the cases of reports not authored by Ms Dufka, or reports jointly authored by her but not identified by her in her testimony. And in many cases there is no precise figure of the numbers interviewed even when she herself is the interviewer. These reports are objectionable in terms of both principle and practicality, applying the approach to such material followed in the *Karemera* case.

Respectfully Submitted,



Terry Munyard for Courtenay Griffiths, Q.C.
Lead Counsel for Charles G. Taylor

Dated this 28h Day of January 2008
The Hague, The Netherlands

Table of Authorities

Special Court for Sierra Leone Cases

Prosecutor v Brima et al., SCSL-04-16-T, Separate and Concurring Opinion of Justice Doherty on Prosecution Request for leave to Call an Additional Witness Pursuant to Rule 73*bis* (E) and Joint Defence Application to Exclude the Expert Evidence of Zainab Hawa Bangura or Alternatively to Cross Examine her Pursuant to Rule 94*bis*, 21 October 2005.

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Prosecutor v. Taylor, SCSL-03-01-PT-267, Notice under Rule 94*bis* (B), 29 May 2007.

Prosecutor v. Taylor, SCSL-03-01-PT-278, Prosecution Filing of Expert Report Pursuant to Rule 94*bis*, 1 June 2007.

Prosecutor v. Taylor, SCSL-03-01-T, Transcript of Proceedings, 22 January 2008.

ICTY Cases

Prosecutor v. Pavle Strugar, IT-01-42-PT, Decision on the Defence Motion to Oppose Admission of an Expert Report Pursuant to Rule 94*bis*, 12 December 2003.

Prosecutor v Milan Milutinovic and others IT-05-87-T Decision on Ojdanic Motion to Exclude Testimony of Patrick Ball 15 February 2007.

Prosecutor v Ljube Boskoski and Johan Tarculovski IT-04-82-T Decision on Motion to Exclude Prosecution's Proposed Evidence of Expert Bezruchenko and his Report 17 May 2007.

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ICTR Cases

Prosecutor v Akayesu, ICTR-96-4-T, Judgment, 2 September 1998.

Prosecutor v Gacumbitsi, ICTR-2001-64-T, Decision on Expert Witnesses for the Defence, Rules 54, 73, 89 and 94*bis* of the Rules of Procedure and Evidence,11 November 2003.

ANNEX 1

A. Material That goes to the Ultimate issues

(i) **Dufka report to Special Court MFI-1**

Page 10: (using the internal numbering of the report itself)

para 3 , final sentence: "The extensive media coverage of Human Rights Watch ensures that governments and armed groups had constructive knowledge of crimes cited in HRW's reports"

Page 25, whole section on the "**Government of Liberia 1997-2001**"

(ii) MFI-11 : Sexual Violence within the Sierra Leone Conflict , page 2 of 4 , under heading "**International Law**": second paragraph appears to reach a finding on Command Responsibility which must lead back ultimately to the Accused

B. Material beyond the Scope of the Indictment, either in time or place or both

(i) Dufka report to the Special Court MFI-1

Page 17:
para starting 2000 -2001 Guinea military attacks : the whole of this paragraph down to Kasiri on page 18

Page 18 :
para "**(ii) Documentation of Crimes Against Civilians in Liberia**" : the whole of this section to half way down page 21

Page 22 : "**H. Response from Charles Taylor to HRW Reports** " The whole of this section including page 23

Pages 25 and 26 from half way down page, starting with "**LURD; Government of Guinea 2000-2003; MODEL; Government of Burkina Faso 2002-2004 ; Government of Liberia 2002-2003; Government of Cote d'Ívoire 2002-2003** "

Pages 27 and 28 contain for the most part descriptions of incidents well before late 1996 when the Indictment period starts to run

Page 30 : **ii We'll kill you if you Cry** two out of the three cases referred to here are well before the Indictment period

Pages 31 – 33 are already excluded by a ruling of the court on 22 January upholding my objection to questions about Part Four of the report - see transcript page 1845 lines 14-15

Pages 37 – 38 Part Six: the author was not asked in evidence to put in this part of her report but in any event is beyond the time and place of the Indictment

(ii) MFI-3 : Back to the Brink : this entire report is beyond the scope of the Indictment in time and place

(iii) MFI-5 Deteriorating Human Rights Situation in Liberia : Ditto

(iv) MFI-4 Liberian Refugees in Guinea : Ditto

(v) MFI-6 Youth, Poverty and Blood : much of this report is based on testimony of interviewees from a time and/or outside the scope of the Indictment; for example page 3, penultimate paragraph;
page 12 text;
page 13 seriatim;
page 16, caption of photograph;
page 22, caption and text;
pages 24 and 25, text;
page 37 , LURD;
pages 42 to the end – almost entirely beyond the scope of the Indictment