



## BACKGROUND

1. On 22 May 2008 the Kallon Defence filed "Urgent and Public with Confidential Annex Kallon Defence Application for the Admission of the Witness Statements of DMK-422 and DMK- 400 Under Rule 92bis, in the Alternative, Under Rule 92ter."<sup>1</sup>
2. On 23 May 2008 the Prosecution filed a "Request for Clarification of Status of DMK-400 and DMK-422."<sup>2</sup>
3. On 26th May 2008, the Trial Chamber issued the "Decision on Prosecution Request for Clarification of Status of DMK-400 and DMK-422."<sup>3</sup>
4. On 26th May 2008 the Kallon Defence filed a "Public Corrigendum Kallon Defence Application for for the Admission of the Witness Statements of DMK-422 and DMK- 400 Under Rule 92bis, in the Alternative, Under Rule 92ter."<sup>4</sup>
5. On 26th May 2008 the Kallon Defence filed a "Corrigendum to Public Corrigendum Kallon Defence Application for for the Admission of the Witness Statements of DMK-422 and DMK- 400 Under Rule 92bis, in the Alternative, Under Rule 92ter."<sup>5</sup> Requesting admission under 92bis only.

## SUBMISSIONS

6. The learned Chamber is respectfully invited to admit the two statements under 92bis on the basis that they provide relevant and probative contextual material on the issues on which adjudication is ultimately sought.
7. Notwithstanding the Prosecution objection to the line in the Buhari Musa statement, admission of the statement is sought. The facts as they appeared to the witness Buhari Musa are useful as it is a judgement formed by an army officer who was engaged with an adversary and is therefore in a position to offer such judgement.
8. Alternatively, if the Chamber is of the view that the said opinion is inadmissible, the defence of Kallon are content to the said statement being edited to remove the offensive line.

## THE RELEVANCE OF THE AMARA ESSY STATEMENT

1. It is submitted that there are matters of relevance and probative significance in the Essy statement albeit not touching on the specific acts and conduct of the accused.

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<sup>1</sup> SCSL-04-15-T-1141

<sup>2</sup> SCSL-04-15-T-1142

<sup>3</sup> SCSL-04-15-T-1148

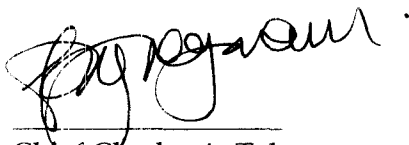
<sup>4</sup> SCSL-04-15-T-1150

<sup>5</sup> SCSL-04-15-T-1152

2. The Prosecution seeks to mischaracterize the analysis of Esse as “expert evidence”. The defence are not seeking a finding of fact that Sarkoh was paranoid. The term is merely descriptive and should not be taken out of context.
3. The statement however describes and gives the Chamber a useful insight into Sankoh as a very strong committed and difficult personality who was easily able to fend off attempts at “regime change” to his organization. See paragraph 35 of the Essy statement.
4. An insight into the personality and character and the dominant position that Sankoh maintained over the RUF from an objective independent and credible international statement may be of assistance to the Chamber and is of relevant contextual background.
5. The challenges and difficulties which presented to those who were trying to bring peace to the region are the matters covered in paragraph 5 of the Prosecution response. In fact, the statement reflects the OAU did not have sufficient finances and the key policy personalities of UN considered the RUF as unreliable and too dangerous to trust.
6. This prevailing geopolitical dynamic has had an influence over the way in which perceptions about the RUF continued up to the time a decision was made to override the Lome amnesties.
7. Ultimately, the learned Chamber will have to consider where in fact the “lack of political will” for peace in the region emerged. This was a factor which led to the wholesale criminalization of the RUF as a movement. The statement of Essy throws useful and interesting insight into those background issues which may be of assistance to the Chamber. Moreover, the defence of Kallon would wish to particularly rely upon paragraph 21 – 35 as generally supportive of the defence theory.

DONE this 28<sup>th</sup> day of April 2008 in Freetown

For Defendant Kallon



**Chris Charles A. Taku**  
**Kennedy Ogeto**  
**Tanoo Mylvaganam**

*Prosecutor v. Sesay et al, Case No. SCSL-04-15-T*