

928)

SCSL-03-01-T
(28330 - 28349)

28330



THE SPECIAL COURT FOR SIERRA LEONE

Trial Chamber II

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

Registrar: Ms. Binta Mansaray

Date: 16 March 2010

Case No.: SCSL-03-01-T

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT MANAGEMENT	
THE HAGUE	
16 MAR 2010	
NAME	ALHASSAN FORNATI
SIGN	<i>[Signature]</i>
TIME	15:48

THE PROSECUTOR

-v-

CHARLES GHANKAY TAYLOR

PUBLIC WITH ANNEX A

**DEFENCE APPLICATION FOR JUDICIAL NOTICE OF ADJUDICATED FACTS
FROM THE RUF TRIAL JUDGEMENT PURSUANT TO RULE 94(B)**

Office of the Prosecutor:

Ms. Brenda J. Hollis

Counsel for Charles G. Taylor:

Mr. Courtenay Griffiths, Q.C.

Mr. Terry Munyard

Mr. Morris Anyah

Mr. Silas Chekera

Mr. Laveli Supuwood

I. Introduction

1. Pursuant to Rule 94(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (“Rules”), the Defence requests that the Trial Chamber exercise its discretion by taking judicial notice of certain facts which have been adjudicated in *Prosecutor v. Sesay, Kallon, Gbao*, Case No. SCSL-04-15-T (“RUF Case”), and which are relevant to the modes of liability with which Mr. Taylor is charged in the Second Amended Indictment.
2. The Defence submits that the forty-eight adjudicated facts from the RUF Trial Judgement¹ and set out in Annex A are neither contentious nor do they involve legal conclusions. Furthermore, the admission of these facts would enable the Defence to streamline the evidence that they would need to present during the Defence case, and the Prosecution would also be able to streamline the evidence that they would need to address in their closing brief. Thus by taking judicial notice of the proposed facts, this Chamber would promote judicial economy and the harmonization of the judgements of this Court.

II. Applicable Legal Principles

3. Rule 94(B) states:

At the request of a party or of its own motion, a Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Special Court relating to the matter at issue in the current proceedings.

4. Earlier in this case, the Trial Chamber held that Rule 94(B) has two purposes: 1) to promote judicial economy² by dispensing with the need for the parties to lead evidence in order to prove supplementary facts or allegations already proven in past proceedings and 2) to harmonise judgements in relation to certain factual issues that arise in multiple cases before the Special Court.³

¹ *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T, Trial Judgement, 2 March 2009 (“**RUF Judgement**”).

² Rule 26 also requires the Chambers to ensure that the trial is both fair and expeditious.

³ *Prosecutor v. Taylor*, SCSL-03-01-T-765, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement Pursuant to Rule 94(B), 23 March 2009, para. 30 (“**Adjudicated AFRC Facts Decision**”); *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T-1184, Decision on Sesay Defence Application for Judicial Notice to be taken of Adjudicated facts under Rule 94(B), 23 June 2008 (“**Sesay Adjudicated Facts Decision**”), para. 17.

5. The Rules of Procedure and Evidence of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) both contain similar provisions for taking judicial notice of adjudicated facts.⁴ Thus guidance can be sought, persuasively, from the jurisprudence of those Tribunals in interpreting Rule 94(B).⁵
6. Rule 94(B) creates a “well-founded presumption for the accuracy of [the proposed fact], which therefore does not have to be proven again at Trial, but which, subject to that presumption, may be challenged at [...] trial.”⁶ Rule 94(B) is designed to relieve the party making the application of the burden of proving certain facts that have already been adjudicated in other proceedings before this Court. Notwithstanding, the opposite party may put such facts in question by leading “reliable and credible evidence to the contrary,”⁷ such as by cross-examining Defence witnesses or by calling rebuttal evidence.⁸
7. While Rule 94(B) does not explicitly define what constitutes an “adjudicated fact,” there is settled international jurisprudence on this matter. The following legal criteria have been adopted as standards which must be met before a Trial Chamber can exercise its discretion to admit a proposed fact as an adjudicated fact:
 - a. The fact must be distinct, concrete and identifiable;
 - b. The fact must be relevant and pertinent to an issue in the current case;
 - c. The fact must not contain legal conclusions, nor may it constitute a legal finding;
 - d. The fact must not be based on a plea agreement or upon facts admitted voluntarily in an earlier case;

⁴ Rule 94(B) of the ICTY provides: “At the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of the adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to the matter at issue in the current proceedings.” Rule 94(B) of the ICTR provides: “At the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to the matter at issue in the current proceedings.”

⁵ Sesay Adjudicated Facts Decision, para. 16.

⁶ Adjudicated AFRC Facts Decision, para. 27. See also, Sesay Adjudicated Facts Decision, para. 18, citing *Prosecutor v. Slobodan Milosevic*, No. IT-02-54-AR73.5, Decision on the Prosecution’s Interlocutory Appeal Against the Trial Chamber’s 10 April 2003 Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 28 October 2003, p. 2 and Separate Opinion Judge Shahabuddeen, 31 October 2006, para. 6.

⁷ Sesay Adjudicated Facts Decision, para. 32, citing *Prosecutor v. Karamera et al.*, No. ICTR-98-44-AR73(C) Appeal Chamber Decision on Prosecutor’s Interlocutory Appeal of Decision on Judicial Notice, 16 June 2006, para. 42 (stating that adjudicated facts are presumed accurate but may be challenged), and *Prosecutor v. Aleksovski*, IT-95-14/1-A, Decision on Prosecutor’s Appeal on Admissibility of Evidence, 16 February 1999, paras. 24-25.

⁸ Adjudicated AFRC Facts Decision, para. 32.

- e. The fact clearly must not be subject to pending appeal, connected to a fact subjected to pending appeal, or have been settled finally on appeal;⁹
- f. The fact must not go to proof of the acts, conduct or mental state of the accused person;
- g. The fact must not be sufficient, in itself, to establish the criminal responsibility of the Accused; and
- h. The fact must not have been re-formulated by the party making the application in a substantially different or misleading fashion; that is to say, the fact must not differ significantly from the way the fact was expressed when adjudicated in the previous proceedings, it must not have been abstracted from the context of the original judgement in an unclear or misleading manner, and it must not be unclear or misleading in the context in which it is placed in the application.¹⁰

III. Submissions

The Facts Promote Fairness and Judicial Economy

8. The Special Court is an *ad hoc* court of limited temporal and geographic jurisdiction, and the cases before the Special Court necessarily overlap in terms of their factual background. As such, the Trial Chamber could promote fairness and judicial economy if it were to accept the proposed facts in Annex A and consequently narrow the factual issues that are in dispute.¹¹ The Defence does not wish to delay proceedings by bringing witnesses to testify to facts that have already been tested and adjudicated and thus do not need to be re-litigated.¹²
9. The Trial Chamber in this case has already taken judicial notice of thirteen facts from the AFRC Trial Judgement and many of the proposed facts in Annex A compliment or further support those findings. Other proposed facts provide supplementary information about the

⁹ Note that this should be read not to prohibit the adjudication of facts settled finally on appeal. See for instance, the wording in *Prosecutor v. Momčilo Krajišnik*, IT-00-39-T, Decision on Third and Fourth Prosecution Motion for Judicial Notice of Adjudicated Facts, 24 March 2005, para. 14 (iv) which states “it must be *finalized*, meaning that the fact has not been contested on appeal, or, if it has, the fact has been settled on appeal”.

¹⁰ Adjudicated AFRC Facts Decision, para. 26; Sesay Adjudicated Facts Decision, para. 19.

¹¹ *Prosecutor v. Dusko Sikirica, Damir Dosen, Dragan Kolundzija*, IT-95-8, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 27 September 2000 (“**Sikirica Adjudicated Facts Decision**”).

¹² See *Prosecutor v. Dragomir Milošević*, IT-98-29/1-T, Trial Chamber Decision on Prosecution’s Motion for Judicial Notice of adjudicated facts and Prosecution’s catalogue of agreed facts with Dissenting Opinion of Judge Harhoff, 10 April 2007 (“**Dragomir Milošević Adjudicated Facts Decision**”), para. 28; *Prosecutor v. Želiko Mejačić*, IT-02-65-PT, Decision on Prosecution Motion for Judicial Notice Pursuant to Rule 94(B), 1 April 2004, p. 5; *Prosecutor v. Momčilo Krajišnik*, IT-00-39-T, Decision on Third and Fourth Prosecution Motion for Judicial Notice of Adjudicated Facts, 24 March 2005, para. 12; *Prosecutor v. Ntakirutimana et al.*, ICTR-96-10-T & ICTR-96-17-T, Decision on the Prosecutor’s Motion for Judicial Notice of Adjudicated Facts, 22 September 2001, para. 28; Sikirica Adjudicated Facts Decision, p. 4.

RUF ideology, structure, leadership, and operations, which are pertinent to issues in the current case.

10. Rule 94(B) does not specify at which stage in the proceedings an application for judicial notice must be brought.¹³ Instead, if testimony has already been heard on a particular proposed fact, the Chamber should determine if taking judicial notice will advance the objective of expediency without compromising the rights of the accused.
11. The rights of the accused will be upheld by ensuring that the trial is not unnecessarily long. The Defence has submitted Version IV of its witness list to the Court,¹⁴ which sets out the pool of witnesses from which the Defence will select those witnesses that are absolutely necessary to travel to The Hague to give testimony. Defence Counsel has recently reiterated that it is still in the process of identifying witnesses that could be dropped from the core and back-up witness lists.¹⁵ If these proposed facts were accepted and judicially noted, the Defence would be minded to call very few, if any, mid- to low-level RUF and AFRC witnesses that do not have a unique and novel aspect to their anticipated testimony.
12. The Prosecution would not be disadvantaged if this Chamber decided to judicially note these adjudicated facts. The Prosecution may have already led evidence to challenge the rebuttable presumption that would be established if the Trial Chamber judicially notes these facts. Alternatively, the Prosecution could challenge any rebuttable presumption that would be created through the cross-examination defence witnesses or by calling rebuttal evidence.¹⁶
13. Although the Accused has finished his testimony, only four other defence witnesses have been called. Of those four, two witnesses have not yet been cross-examined. Therefore the Prosecution has the opportunity to cross-examine the bulk of the Defence witnesses on these

¹³ Adjudicated AFRC Facts Decision, para. 32.

¹⁴ *Prosecutor v. Taylor*, SCSL-03-01-T-897, Public with Annex A and Confidential Annex B Defence Rule 73ter Filing of Witness Summaries – Version IV, 29 January 2010.

¹⁵ *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 5 February 2010.

¹⁶ In this regard, it is noteworthy that a Trial Chamber of the ICTR took judicial notice of certain facts even after the Defence had presented most of its evidence. *Prosecutor v. Bizimungu et al*, ICTR-99-50-T, Decision on Prosecutor's Motion for Judicial Notice, 22 September 2006, para. 10.

facts. In most instances, the Accused is not in a position to comment on the proposed facts anyway, because he was not involved in the day to day organization of the AFRC or RUF and thus has no personal knowledge of their veracity.

The Facts are Distinct, Concrete and Identifiable

14. The Defence submits that the proposed facts in the Annex are distinct, concrete, and identifiable. The facts do not contain ambiguities or vague references.

The Facts are Relevant to Issues in the Current Case

15. Rule 94 is not a mechanism that may be employed to circumvent the ordinary requirement of relevance and thereby “clutter” the record with matters that would not otherwise be admitted.¹⁷ The proposed facts are relevant. They provide background information on the structure of the RUF and the working relationship of between members of the RUF itself and between the RUF and AFRC. In the Indictment against Mr. Taylor, members of the RUF and AFRC are considered subordinates of the Accused. Thus their roles and functions are relevant to issues in the current case.

The Facts are Not Legal Characterisations or Conclusions

16. Factual findings may have legal aspects to them; therefore, each proposed adjudicated fact must be considered individually to determine whether it contains findings or characterisations which are essentially legal in nature.¹⁸ The Defence submits that the relevant facts in the Annex are not of a legal character as they deal solely with Trial Chamber I’s factual findings relating to the RUF ideology, the RUF command structure and organization, the RUF movements, and/or the relationship between the AFRC and the RUF.

The Facts are Not Taken Out of Context and Were Not Altered on Appeal

17. The adjudicated facts in Annex A have been formulated or excerpted from the original judgement in a manner consistent with the facts as they were adjudicated and as it appeared in the original judgement. In fact, most of the facts are taken verbatim from the Judgement.

¹⁷ *Prosecutor v. Semanza*, ICTR-97-20-A, Judgement, 20 May 2005, para. 189.

¹⁸ *Sesay Adjudicated Facts Decision*, para. 26; *Dragomir Milosevic Adjudicated Facts Decision*, para 22.

Furthermore, none of the relevant facts set out in this motion were contradicted by any finding of the Appeals Chamber in its Judgment.¹⁹

Discretionary Considerations

18. In determining whether to exercise its discretion to take judicial notice of a proposed adjudicated fact, the Trial Chamber must consider whether doing so would serve the interests of justice.²⁰ As the *Krajisnik* Trial Chamber emphasised, the first concern is always to ensure that the Accused is offered a fair trial. As long as this principle is accomplished, the Chamber is under a duty to avoid that unnecessary time and resources are wasted on undisputed facts.²¹

IV. Conclusion

19. For the above reasons, the Defence respectfully requests the Trial Chamber to take judicial notice of the proposed adjudicated facts in Annex A.

Respectfully Submitted,



Courtenay Griffiths, Q.C.
Lead Counsel for Charles G. Taylor
Dated this 16th Day of March 2010
The Hague, The Netherlands

¹⁹ *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-A, Appeals Judgment, dated 26 October 2009.

²⁰ *Dragomir Milosevic* Adjudicated Facts Decision, para 28.

²¹ *Prosecutor v. Momcilo Krajisnik*, IT-00-39-PT, Decision on Prosecution's Motion for Motion for Judicial Notice of Adjudicated Facts and for Admission of Written statements of Witnesses Pursuant to Rule 92bis, 28 February 2003, paras. 11-12.

Table of Authorities

SCSL

Prosecutor v. Sesay, Kallon, Gbao, SCSL-04-15-T, Trial Judgement, 2 March 2009

Prosecutor v. Sesay, Kallon, Gbao, SCSL-04-15-A, Appeals Judgment, 26 October 2009

Prosecutor v. Sesay, Kallon, Gbao, SCSL-04-15-T-1184, Decision on Sesay Defence Application for Judicial Notice to be taken of Adjudicated facts under Rule 94(B), 23 June 2008

Prosecutor v. Taylor, SCSL-03-01-T-765, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement Pursuant to Rule 94(B), 23 March 2009

ICTY

Prosecutor v. Momčilo Krajišnik, IT-00-39-PT, Decision on Prosecution's Motion for Motion for Judicial Notice of Adjudicated Facts and for Admission of Written statements of Witnesses Pursuant to Rule 92bis, 28 February 2003

<http://www.icty.org/x/cases/krajisnik/tdec/en/kra-dec030228e.pdf>

Prosecutor v. Momčilo Krajišnik, IT-00-39-T, Decision on Third and Fourth Prosecution Motion for Judicial Notice of Adjudicated Facts, 24 March 2005

[http://sim.law.uu.nl/sim/caselaw/tribunalen.nsf/8485f17e3db5bb18c12571b5004ee21d/ffb6043e4b3e9183c12571fe004c8e49/\\$FILE/Krajisnik%20TCD%2024-03-2005.pdf](http://sim.law.uu.nl/sim/caselaw/tribunalen.nsf/8485f17e3db5bb18c12571b5004ee21d/ffb6043e4b3e9183c12571fe004c8e49/$FILE/Krajisnik%20TCD%2024-03-2005.pdf)

Prosecutor v. Dragomir Milosevic, IT-98-29/1-T, Trial Chamber Decision on Prosecution's Motion for Judicial Notice of adjudicated facts and Prosecution's catalogue of agreed facts with Dissenting Opinion of Judge Harhoff, 10 April 2007

http://www.icty.org/x/cases/dragomir_milosevic/tdec/en/070410.pdf

Prosecutor v. Dusko Sikirica, Damir Dosen, Dragan Kolundzija, IT-95-8, Decision on Motion for Judicial Notice of Adjudicated Facts, 27 September 2000

<http://www.icty.org/x/cases/sikirica/tdec/en/00927AF513899.htm>

ICTR

Prosecutor v. Bizimungu et al., ICTR-99-50-T, Decision on Prosecutor's Motion for Judicial Notice, 22 September 2006

[http://trim.unictr.org/webdrawer/rec/82086/view/BIZIMUNGU%20ET%20AL%20-%20%20DECISION%20ON%20PROSECUTORS%20MOTION%20FOR%20JUDICIAL%20NOTICE%20-%20RULE%2094\(A\)%20OF%20THE%20RULES.PDF](http://trim.unictr.org/webdrawer/rec/82086/view/BIZIMUNGU%20ET%20AL%20-%20%20DECISION%20ON%20PROSECUTORS%20MOTION%20FOR%20JUDICIAL%20NOTICE%20-%20RULE%2094(A)%20OF%20THE%20RULES.PDF)

Prosecutor v. Ntakirutimana et al., ICTR-96-10-T & ICTR-96-17-T, Decision on the Prosecutor's Motion for Judicial Notice of Adjudicated Facts, 22 September 2001

<http://trim.unictr.org/webdrawer/rec/25346/view/E.%20&%20G.%20NTAKIRUTIMANA%20-%20DECISION%20ON%20THE%20PROSECUTORS%20MOTION%20FOR%20JUDICIAL%20NOTICE%20OF%20ADJUDICATED%20FACTS.PDF>

Prosecutor v. Semanza, ICTR-97-20-A, Judgement, 20 May 2005

<http://www.unhcr.org/refworld/publisher,ICTR,,,48abd53e1a,0.html>

28339

Annex A

Annex A – Proposed Adjudicated Facts from RUF Judgement

28340

No.	RUF Judgement Para.	Proposed Adjudicated Fact
RUF Ideology		
1	651 (part)	The RUF documented its ideological goals and political objectives and disseminated them to its recruits. The RUF agenda fixed the aims and objectives which the RUF sought to achieve and the means they had to employ to attain them. The agenda was the ideology of the RUF movement. It was documented and printed matter and set out the said objectives. The political ideology of the RUF was an integral component of the movement and comprised a key aspect of the training for RUF fighters at Camp Naama in Liberia in the early years of the movement.
2	652	A crucial aspect of the political ideology of the RUF was the acceptability of taking up arms to further the goals of its revolution. The ideology consisted in “the use of weapons to seek total redemption”; “to organize themselves and for a sort of People’s Army”; “to procure arms for a broad-based struggle so that the rotten and selfish government is toppled”. The RUF claimed to be fighting to overthrow a corrupt military Government in order to realize the right of every Sierra Leonean to true democracy and fair governance. Nonetheless, when democratic elections were held in 1996 the RUF boycotted the ballot box and continued active hostilities.
3	653	Sankoh labeled the RUF revolution as a struggle of self-reliance, meaning that the people of Sierra Leone were the owners of the revolution. RUF fighters were told that if the Sierra Leonean people did not accept Sankoh’s vision of a new society achieved through armed liberation, then the revolution would fail.
4	656 (part)	The RUF’s military ideology consisted of various sets of rules and principles, not all of which were equally well-known, that governed the conduct of military operations in Sierra Leone, focusing on the behaviour of fighters toward civilians and the importance of discipline and respect for superior orders. The ideology assisted in maintaining the cohesion of the RUF and was a driving force in the pursuance of the objectives and goals of the revolution to eventually take control of the people and the territory of Sierra Leone.
5	705	<p>The RUF ideology included the Eight Codes of Conduct which governed the fighters’ interactions with civilians. The Codes provided in part:</p> <ul style="list-style-type: none"> To speak politely to masses To pay fairly for all [that] you buy To return everything that you borrow To pay for everything that you demand or damage Do not damage crops Do not take liberty from women Do not ill-treat captives Do not hate or swear people

Annex A – Proposed Adjudicated Facts from RUF Judgement

28341

No.	RUF Judgement Para.	Proposed Adjudicated Fact
RUF Operational Command Structure		
6	657, 661, 662, 721	<p>The most senior assignments in the RUF movement were the Leader, the Battle Field Commander ("BFC") and the Battle Group Commander ("BGC"). This <i>trias</i> was the center of the military power and control of the RUF and together formed the core of the RUF "High Command." Subordinate to these senior Commanders there was a system of appointments of both operational and staff commanders whose responsibilities generally corresponded to a particular geographical area of control.</p> <p>The Battle Field Commander was the Leader's second in command. The BFC was responsible for planning and executing military operations, inspecting the front line and ensuring the welfare of the fighters there. The BFC received instructions from the Leader and was superior to the Commanders of combat and staff units.</p> <p>In the RUF military structure the Battle Group Commander functioned <i>de facto</i> as third-in-command of the RUF and second-in-command to the BFC. The BGC was responsible for the welfare of all members of the RUF, both civilians and fighters, and for all internal affairs of the RUF. The BGC reported to the BFC.</p>
7	658, 651 (part)	<p>When the RUF began organized armed operations in Sierra Leone in March 1991, the High Command was comprised of the Leader Foday Sankoh, the BFC Mohamed Tarawallie and the BGC Rashid Mansaray.</p> <p>Foday Sankoh, a former SLA Corporal and radio operator, was the <i>de jure</i> and <i>de facto</i> leader of the RUF from the commencement of hostilities in 1991 until his arrest in Nigeria in February 1997. Sankoh was also referred to as the Commander in Chief. As the leader of the movement Sankoh had paramount responsibility over all activities within the RUF and determined its political and military goals. Foday Sankoh was the driving force behind the RUF movement and shaped its political and military ideology. Sankoh was at times authoritarian, if not dictatorial.</p>
8	659	<p>Shortly after Sankoh's arrest in Nigeria in February 1997, Bockarie replaced him as the <i>de facto</i> Leader. Sankoh, however, remained capable of communicating with his subordinates and giving directions and orders until he was transferred by the Nigerian authorities to the Sierra Leonean Government in September 1998.</p>
RUF from November 1996 to May 1997		
9	736 (part)	<p>In February 1997, Sankoh was arrested at an airport in Nigeria on allegations that he was carrying arms. Bockarie subsequently put himself in control of the movement. Although Sankoh continued to occupy the position of overall Leader and continued to communicate with the RUF via radio from Nigeria, Bockarie</p>

Annex A – Proposed Adjudicated Facts from RUF Judgement

28342

No.	RUF Judgement Para.	Proposed Adjudicated Fact
10	737 (part)	acted as the <i>de facto</i> Commander-in-Chief for the next two and a half years. In March 1997, Sankoh sent a radio message to Bocakrie from Nigeria issuing promotions to certain Commanders. Bockarie was promoted from Major to Colonel, while Sesay was simultaneously reinstated in his rank as Major and further promoted to Lieutenant Colonel. Bockarie and Sesay had been <i>de facto</i> operating as BFC and BGC since late 1996, thereupon, Sankoh officially confirmed these assignments.
11	738	At the same time, Sankoh promoted Superman and Isaac Mongor from Major to Colonel and appointed them as Area Commanders for the Western Jungle and Kangari Hills (Northern Jungle) respectively. Vandi was promoted from Major to Lieutenant Colonel and maintained his assignment as Area Commander for Kailahun District. Gibril Massaquoi was promoted from Staff Captain to Lieutenant Colonel and was named RUF Spokesperson.
RUF during the Junta Government: May 1997 to February 1998		
12	743, 744	In May 1997, SLA Corporal Tamba Gborie announced a coup led by soldiers over the radio and requested all senior military and police Commanders to report to the SLA. The SLA's chief grievance was that the creation of the Kamajors as a military auxiliary force was unconstitutional, prolonged the war, and fuelled corruption, nepotism, and tribalism. The chief plotters of the coup were all members of the football team of the 1 st Battalion of the SLA and included Abu Sankoh aka Zagalo, Sergeant Tamba Alex Brima ("Gullit"), Sergeant Ibrahim Bazy Kamara ("Bazy"), Santigie Kanu ("Five-Five"), Idrissa Kamara ("Leather Boot") and Corporal Hassan Papah Bangura ("Bomb Blast").
13	745, 747, 749	The coup members immediately freed Major Johnny Paul Koroma from Pademba Road prison in Freetown where he had been held after an earlier coup attempt. The group called themselves the Armed Forces Revolutionary Council ("AFRC") and announced over the radio that Johnny Paul Koroma was their leader. Shortly after the AFRC seized power, Johnny Paul Koroma contacted Sankoh in Nigeria to form an alliance. Sankoh accepted the invitation.
14	754	The RUF spokesperson, Eldred Collins, subsequently issued a radio broadcast proclaiming that the AFRC and RUF movements would work cooperatively to defend Sierra Leone. The governing body of the Junta Government was referred to alternatively as the AFRC Council or the Supreme Council. The AFRC Supreme Council included members of the former SLA, RUF and civilians. It was the highest decision-making body in the Junta regime and the sole <i>de facto</i> executive and legislative

Annex A – Proposed Adjudicated Facts from RUF Judgement

28343

No.	RUF Judgement Para.	Proposed Adjudicated Fact
15	761, 762	<p>authority within Sierra Leone during the Junta period.</p> <p>The Chief of Defence Staff, FSY Koroma, and the Army Chief of Staff, SO Williams, oversaw the military and reported to Johnny Paul Koroma. A proposal by Bockarie to integrate the armed forces of the RUF and the AFRC, making Bockarie and Sesay respectively second-in-command to the Chief of Defence Staff FSY Koroma and to the Army Chief of Staff, SO Williams, was rejected.</p>
16	763, 764 (part)	<p>Senior RUF officers were consequently left without official appointments within the Junta military structure and the RUF retained its own command structure, with the notable difference that Bockarie was officially subordinate to Johnny Paul Koroma.</p> <p>The failure to integrate the two military organizations into a unitary command structure led to misunderstandings and conflicts. While some AFRC fighters obeyed orders from RUF Commanders, others would not. Lower-ranking RUF fighters disobeyed orders from their senior officers. The AFRC considered this to be unacceptable as it was contrary to conventional military discipline. Many RUF fighters felt that the AFRC did not respect the RUF as an organization.</p> <p>By early September 1997, Bockarie had also become disillusioned with the RUF's limited role in the AFRC government. Bockarie was particularly aggrieved by the AFRC's disregard for the RUF's advice on military matters.</p>
The Intervention: February 1998		
17	776 (part)	<p>Between 6 and 14 February 1998, ECOMOG forces acting on behalf of the ousted government of President Kabbah battled AFRC/RUF forces in Freetown and the Western Area. The Junta forces were ill-prepared; they soon expended their ammunition supplies and were forced to retreat.</p>
18	778	<p>The withdrawal of the RUF and AFRC troops from Freetown was unplanned and chaotic. They left Freetown via the Peninsula road and travelled eastwards through Juba, York, Tombo and Newton on the Makeni highway towards Masiaka.</p>
19	782	<p>Upon arrival in Masiaka in Port Loko District, the retreating troops regrouped into four discernable factions, each with its own command structure: the AFRC, the STF, and two RUF contingents, one of each of which was controlled by Superman and the other by Sesay.</p>
20	789	<p>After less than a week in Makeni, several high ranking AFRC and RUF Commanders such as SAJ Musa, Superman, Bazzy and Hassan Papah Bangura proceeded to Kabala in Koinadugu District. Koroma travelled to his native village Magbonkineh.</p>
21	792	<p>Prior to the joint attack on Kono District, a rift developed between SAJ Musa and the other AFRC and RUF</p>

Annex A – Proposed Adjudicated Facts from RUF Judgement

28344

No.	RUF Judgement Para.	Proposed Adjudicated Fact
22	793 (part)	<p>Commanders. SAJ Musa considered the AFRC to be professional soldiers and would not stand the prospect of subordination to RUF command. In particular, he refused to accept orders from Bockarie and Sesay.</p> <p>SAJ Musa accordingly decided to establish his own base in Koinadugu District with troops loyal to him. Although a number of AFRC troops followed him, the majority elected to remain allied with the RUF. From that point onwards no relationship existed between SAJ Musa and the RUF.</p>
23	804	<p>Bockarie then expelled Koroma to Kangama, where he was effectively placed under house arrest. Koroma had no means of communication with his troops until after the Lome Accord in 1999. After his arrest, the RUF assaulted Gullit and detained him in Kailahun District. The AFRC troops in Kono District were not informed about Koroma's removal from power until Gullit was permitted to return to Kono in April 1998.</p>
24	806 (part)	<p>In order to motivate his senior officers, Bockarie issued a series of promotions. Sesay was promoted to full Colonel and assigned as BFC, while Superman became BGC. Kallon was tasked with monitoring developments at the front lines and reporting to Sesay as BFC.</p>
25	817 (part), 819 (part), 820 (part)	<p>In April 1998, the relationship between the AFRC and RUF was fractious. These tensions coincided with sustained military pressure from ECOMOG on the RUF and AFRC positions.</p> <p>The rift between the two forces erupted after an attack on Sewafe Bridge when Gullit disclosed to his troops that Bockarie had beaten him and seized his diamonds and that Johnny Paul Koroma was under RUF arrest. Gullit declared that the AFRC troops would withdraw from Kono District to join SAJ Musa in Koinadugu District. Gullit and Bazzy accordingly departed, taking with them the vast bulk of the AFRC fighters in Kono District. The split was acrimonious and Gullit decisively refused to accept Superman's attempt to re-impose cooperation, ignoring a directive from him to return to Kono District.</p>
26	823, 824, 825	<p>The split between the AFRC and RUF forces occurred when Gullit's troops left Kono District for Koinadugu and Bombali Districts, prior to the end of April 1998.</p> <p>In August 1998, the RUF attempted to retake control of Koidu from ECOMOG in an attack led by Superman and code named the Fiti-Fata mission. Although Kallon was Superman's deputy for that mission, the operation was hampered by enmity between the two Commanders and excessive looting by the troops, and the mission failed. Superman alleged that Kallon had sabotaged the mission and Bockarie then recalled Kallon to Buedu.</p> <p>The animosity between Superman and Bockarie was heightened by the failed Fiti-Fata mission. Shortly thereafter Superman decided to join forces with SAJ Musa in Koinadugu District and he departed Kono</p>

Annex A – Proposed Adjudicated Facts from RUF Judgement

28345

No.	RUF Judgement Para.	Proposed Adjudicated Fact
		<p>District with a contingent of loyal RUF fighters and a store of captured ammunition. Bockarie ordered Superman to report to Headquarters in Buedu, but Superman refused to do so.</p> <p>In August 1998, Bockarie modified the radio codes utilized by the RUF to prevent Superman from monitoring radio transmissions and forbade all RUF radio operators from contacting Superman, on threat of death.</p>
		<p>Bombali and Koinadugu Districts: May to November 1998</p>
27	845	<p>After Gullit and his troops departed Kono District in late April 1998, they travelled to Kurubola in Koinadugu District, where Gullit detailed to SAJ Musa his mistreatment at the hands of the RUF in Kailahun. SAJ Musa advised him to establish an AFRC defensive base in Bombali District. Gullit accordingly led his group of AFRC fighters from Mansofinia across Bombali District to Rosos. A small number of RUF fighters also formed part of the group and were subordinate to Gullit's command.</p>
28	846	<p>After their departure from Kono, the AFRC troops no longer received arms and ammunition from Kailahun. Instead, they were forced to be self-reliant and depended upon supplies captured from their enemies.</p>
29	848 (part), 850 (part)	<p>During the march [to Rosos], Gullit's radio operator was captured and the microphone for their radio was lost as a result of which the AFRC was unable to transmit or monitor radio signals. Gullit's group was therefore not in direct communication with SAJ Musa or the RUF High Command until they reached Rosos sometime in July or August 1998.</p>
30	851	<p>Gullit's group was forced to abandon Rosos due to heavy aerial bombardment by ECOMOG. They proceeded to a location nearby known as Major Eddie Town.</p> <p>Following the departure of Gullit and his AFRC fighters from Kurunbonla and the arrival of Superman, three distinct factions of fighters operated in Koinadugu District: the AFRC under command of SAJ Musa, the STF commanded by Bropleh, and the RUF commanded by Superman. SAJ Musa refused to take orders from Bockarie or Superman; while Bropleh and Superman largely subordinated their fighters to SAJ Musa's command.</p>
31	853	<p>In late August 1998, Bockarie ordered that a group of four radio operators (three RUF and one AFRC) be dispatched from Kono to join Gullit's fighting force as informants, to ensure that the RUF High Command was apprised of Gullit's movements and intentions. The radio operators travelled first to Superman and SAJ Musa in Koinadugu. They departed for Rosos on or about 1 September 1998 in the company of a large contingent of fighters sent by SAJ Musa to reinforce Gullit's group. While most were AFRC, there was one platoon of 64 RUF fighters and some STF.</p>

Annex A – Proposed Adjudicated Facts from RUF Judgement

28346

No.	RUF Judgement Para.	Proposed Adjudicated Fact
32	854	<p>Superman remained officially the highest ranking RUF officer in Koinadugu District. There is evidence that Superman communicated with the RUF High Command in this period: for instance, he informed Bockarie and Sesay of the attack on Kabala via the radio. Notwithstanding the sporadic communication, from August 1998, Superman and those fighters under his command operated as an independent RUF faction. These individuals were no longer under the effective control of or working in concert with the RUF High Command in Buedu.</p>
33	856	<p>When SAJ Musa arrived at Major Eddie Town, he assumed the control over the AFRC forces from Gullit, declaring himself the Commander-in-Chief. There were approximately 30 low-ranking RUF fighters, including the signaler Alfred Brown, amid several thousand AFRC fighters at Major Eddie Town. SAJ Musa initially intended to arrest and execute the RUF fighters, but he was dissuaded by other AFRC Commanders. However, he declared that no person was to communicate with Superman in Koinadugu or Bockarie in Buedu. SAJ Musa prohibited RUF radio operators from using the communication sets and ordered that any RUF radio operator who approached a radio was to be killed.</p>
34	858	<p>SAJ Musa and the AFRC troops commenced their advance towards Freetown in November 1998. From Major Eddie Town, the troops attacked Mange and Lunsar. In Lunsar, a further altercation between SAJ Musa and Gullit occurred as Gullit had again contacted Bockarie by radio. From Lunsar, the AFRC troops bypassed Masiaka and attacked the Guinean ECOMOG troops at RDF Junction between Mile 38 and Masiaka.</p>
35	859	<p>Bockarie was disgruntled with the AFRC's insistence on operating independently as opposed to taking directions from him. Bockarie claimed on BBC that his men had staged the ECOMOG attack and that troops under his command were marching on Freetown. When SAJ Musa discovered that it was the RUF radio operator Alfred Brown who had relayed information regarding the attack to Bockarie, he slapped Brown and warned him to stay away from the radio set and desist from disclosing their operations to the RUF.</p>
The Attack on Freetown: December 1998 to January 1999		
36	861	<p>By December 1998 Sesay had been recalled to Buedu from Pendembu and reinstated as BFC. In the first week of December, Bockarie convened a strategic meeting in his compound in Buedu, attended by senior members of the RUF including Sesay, Kallon, Isaac Mongor, Mike Lamin and Peter Vandi.</p>
37	875	<p>As a result [of SAJ Musa's death], Gullit assumed overall command of the AFRC forces. On his instructions, one of the radio operators contacted Bockarie, informed him of SAJ Musa's death and requested RUF reinforcements for the attack on Freetown. Bockarie suspected that the call was a ruse and accused Gullit of attempting to deceive him.</p>
38	876,	<p>On 5 January 1999, on the outskirts of Freetown, Gullit again called Bockarie. He informed him that his</p>

Annex A – Proposed Adjudicated Facts from RUF Judgement

No.	RUF Judgement Para.	Proposed Adjudicated Fact
	877	<p>troops were poised to enter Freetown but lacked logistics, arms and ammunition and needed reinforcements. Bockarie told Gullit that his plan to attack Freetown was foolish. He nonetheless agreed to send reinforcements from Makeni and told Gullit to postpone the attack until their arrival.</p> <p>The AFRC troops delayed their advance for approximately one day before continuing towards Freetown. The decision not to wait for the promised RUF support appears to have been motivated by a combination of impatience on the part of the fighters and pressure from Kamajor attacks.</p>
39	879, 880	<p>In the early hours of 6 January 1999, the AFRC entered Freetown. The troops were divided into two flanks and ordered to take different routes through Ferry Junction to converge on the ECOMOG troops at Uppun. The AFRC forces overwhelmed ECOMOG at Uppun and continued toward the central part of Freetown. At approximately 7:30am, the fighters secured State House, the seat of Government.</p> <p>Gullit then dispatched a group of AFRC troops to Pademba Road Prison, where they released the inmates, including former President JS Momoh and RUF members Gibril Massaquoi and Steve Bio. The troops searched for Sankoh, but were informed by one of the prisoners that he had been moved to another location.</p>
40	893	<p>The RUF had no control over the AFRC forces in Freetown during the attack and the RUF did not form part of a common operation with the AFRC forces for this attack on 6 January 1999.</p>
41	882, 884, 892 (part)	<p>Throughout 6 and 7 January 1999, the AFRC forces attempted to advance into the western part of Freetown, but ECOMOG engaged the rebels in heavy fighting and they were unable to penetrate further across the city.</p> <p>On 9 January 1999, under pressure from ECOMOG, the AFRC abandoned State House and began retreating through the eastern part of the city. Gullit again radioed Bockarie and requested him to send RUF reinforcements. Bockarie promised to do so and the two men arranged that AFRC fighters would meet the RUF reinforcements at a factory near Wellington on the eastern edge of Freetown. A group of AFRC fighters were dispatched to Wellington and a group of RUF troops led by RUF Rambo and Superman moved from Lunsar to the Waterloo area. However, ECOMOG controlled Kossoh Town, Hastings, and Jui, which are situated between Wellington and Waterloo.</p> <p>The contingent of Guinean ECOMOG troops stationed at Jui and Kossoh town blocked the path of the RUF troops from Waterloo to Freetown. The RUF attacked the ECOMOG soldiers but were unable to pass</p>

Annex A – Proposed Adjudicated Facts from RUF Judgement

No.	RUF Judgement Para.	Proposed Adjudicated Fact
		<p>through to Freetown. In addition, in-fighting persisted between Superman and Rambo.</p> <p>Ultimately the RUF troops were unable or unwilling to break through the ECOMOG position to meet the AFRC fighters.</p>
42	892 (part), 888 (part)	<p>After about two weeks of heavy fighting, ECOMOG reinforcements arrived from Port Loko and opened a passage to secure the safe retreat of Guinean ECOMOG troops to Port Loko. The removal of the ECOMOG troops appears to have facilitated the retreat of the AFRC from Freetown to Waterloo.</p>
The RUF: February 1999 to September 2000		
43	904	<p>The AFRC and RUF met in Waterloo about three weeks after the AFRC had first entered Freetown.</p> <p>In February 1999, Bockarie promoted Sesay, Mike Lamin, Peter Vandj, Isaac Mongor, Superman, and Kallon to Brigadier.</p>
44	910 (part)	<p>In October 1999, fighters loyal to Superman in Kambia were refusing to obey Sesay's orders until Sankoh intervened to order them to do so.</p>
45	908 (part), 912	<p>On 7 July 1999, the RUF and the Kabbah Government signed the Lome Peace Accord. The Lome Peace Accord provided for the RUF to be transformed into a political party, which became known as the RUFF.</p>
46	913 (part)	<p>In November 1999, the RUF transformed itself into the RUFF.</p> <p>By December 1999, Bockarie and Sankoh were in open dispute over the implementation of the Lome Peace Accord and Bockarie no longer took orders from Sankoh. Bockarie was not present at the peace negotiations prior to the Lome Peace Accord and he became highly dissatisfied with it. He considered the Accord to be an attempt by the Kabbah Government to dupe the RUF leadership and he objected strongly to its disarmament requirements. In view of his recalcitrance, Sankoh and rebels loyal to him made plans to attack Bockarie in Buedu.</p>
47	916 (less the reference to Charles Taylor)	<p>On 17 May 2000 Sankoh was arrested in Freetown on treason charges, leaving the RUF without official leadership. Concerned that the absence of a recognized overall leader of the RUF could undermine the carefully negotiated peace process, the ECOWAS leaders invited Sesay to meet with them to discuss the leadership question. On 25 July 2000, Sesay travelled to Liberia and met with various ECOWAS leaders including ... the Nigerian President Obasanjo. The ECOWAS leaders requested Sesay to assume the leadership of the RUF and implement the Lome Peace Accord in Sankoh's absence.</p>
48	917	<p>As Sesay did not feel able to unilaterally accept the offer, he returned to Kono and convened a meeting to discuss the ECOWAS proposal. The meeting was attended by over 30 RUF Commanders including Gbao,</p>

Annex A – Proposed Adjudicated Facts from RUF Judgement

No.	RUF Judgement Para.	Proposed Adjudicated Fact
		<p>Kallon and Gibril Massaquoi. Although other candidates for the leadership were nominated, the majority of Commanders present endorsed Sesay. Sesay returned to Monrovia and informed the ECOWAS leaders that he would act as interim leader of the RUF. An announcement to this effect was subsequently broadcast on BBC Radio.</p>