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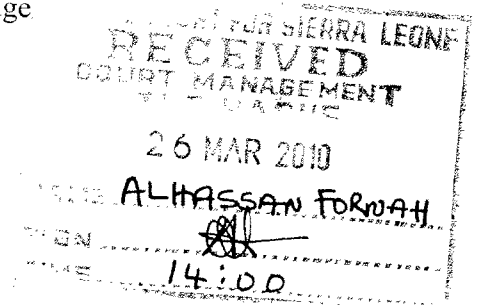
**SPECIAL COURT FOR SIERRA LEONE  
OFFICE OF THE PROSECUTOR**

**TRIAL CHAMBER II**

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

Registrar: Ms. Binta Mansaray

Date filed: 26 March 2010



**THE PROSECUTOR**

**Against**

**Charles Ghankay Taylor**

Case No. SCSL-03-01-T

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**PUBLIC WITH ANNEX A  
PROSECUTION RESPONSE TO DEFENCE APPLICATION FOR JUDICIAL NOTICE OF ADJUDICATED  
FACTS FROM THE RUF TRIAL JUDGEMENT PURSUANT TO RULE 94(B)**

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## I. INTRODUCTION

1. The Prosecution files this Response to the “Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement<sup>1</sup> pursuant to Rule 94(B)” filed on 16 March 2010 (“**Defence Application**”).<sup>2</sup>
2. The Defence Application should be denied. The exercise of the Trial Chamber’s discretion to take judicial notice of the proposed adjudicated facts would be contrary to the interests of justice and would not promote judicial economy, and the Defence has failed to satisfy several underlying criteria for judicial notice of adjudicated facts.

## II. APPLICABLE LAW

3. Judicially noticing an adjudicated fact has the legal effect of establishing a “presumption for the accuracy of this fact, which therefore does not have to be proven again at trial, but which, subject to that presumption, may be challenged at that trial”.<sup>3</sup> It has been noted that in relation to such facts “the Trial Chamber in future relevant deliberations, and particularly those relating to the final judgment, retains the obligation to assess the facts’ weight, ‘taking into consideration the evidence in the present case in its entirety’”.<sup>4</sup>
4. In contrast to Rule 94(A), according to which judicial notice is mandatory, Rule 94(B) vests a Chamber with a discretionary power to take judicial notice of adjudicated facts.<sup>5</sup> In exercising its discretion to judicially notice a proposed adjudicated fact pursuant to Rule 94(B), the Trial Chamber must determine first whether the fact fulfils a number of admissibility requirements that have become

<sup>1</sup> *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T-1234, “Judgement”, 2 March 2009 (“**RUF Trial Judgement**”).

<sup>2</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-928, “Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement pursuant to Rule 94(B)”, 16 March 2010, (“**Defence Application**”).

<sup>3</sup> *Prosecutor v. Slobodan Milosevic*, 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, cited in *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. 18. See also *Prosecutor v. Momcilo Krajisnik*, IT-00-39-T, “Decision on Third and Fourth Prosecution Motions for Judicial Notice of Adjudicated Facts”, 24 March 2005, (“**Krajisnik Decision of 24 March 2005**”), para. 13; *Prosecutor v. Taylor*, SCSL-03-1-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 (“**Taylor Adjudicated Facts Decision**”), para. 27.

<sup>4</sup> *Prosecutor v. Popović et al.*, IT-05-88-T, “Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts with Annex”, 26 September 2006 (“**Popović Adjudicated Facts Decision**”), para. 21, citing *Krajisnik Decision of 24 March 2005*, para. 17.

<sup>5</sup> *Sesay Adjudicated Facts Decision*, para. 15.

established in SCSL as well as ICTY and ICTR jurisprudence,<sup>6</sup> and second whether judicial notice should nonetheless be withheld on the ground that taking judicial notice would not serve the interests of justice.<sup>7</sup>

5. The Trial Chamber should exercise its discretion in such a way as to ensure that taking judicial notice will “promote judicial economy while ensuring that the trial is fair, public and expeditious”.<sup>8</sup>
6. Trial Chamber I observed that “[i]t cannot be controverted that each criminal case centres on determining the guilt or innocence of a particular accused person or persons. As such, the issues, evidence and factual findings in one case cannot bind the prosecution in a different case.”<sup>9</sup>
7. It has been recognized by this Trial Chamber that “[w]hether a proposed adjudicated fact goes to issues central to the present case is a relevant factor to be considered in determining whether the Trial Chamber should exercise its discretion to judicially notice such fact”.<sup>10</sup> Justice Doherty has noted that a central issue is “more than merely relevant but does not extend to the actual acts and conduct of the accused”<sup>11</sup> and that what is central depends on the circumstances of the specific case.
8. Other factors that may be taken into account in the exercise of a Trial Chamber’s discretion include:
  - a) The stage of the proceedings at the time of the application;
  - b) The volume of evidence already led by the parties in respect of the proposed adjudicated facts;

<sup>6</sup> *Taylor* Adjudicated Facts Decision, para. 26.

<sup>7</sup> *Popović* Adjudicated Facts Decision, para. 4; *Taylor* Adjudicated Facts Decision, paras. 26 and 28.

<sup>8</sup> *Sesay* Adjudicated Facts Decision, para. 21. See also *Prosecutor v. Aleksovski*, IT-95-14/1, “Decision on Prosecutor’s Appeal on Admissibility of Evidence”, 16 February 1999, para. 25. See also *Prosecutor v. Delalic et al*, IT-96-21-T, “Decision on the Prosecution’s Motion for an order Requiring Advance Disclosure of Witnesses by the Defence”, 4 February 1998, para. 49: “There is no doubt that procedural equality means [...] equality between the Prosecution and the Defence,” and *Prosecutor v. Kordic and Cerkez*, IT-95-14/2, “Decision on Prosecutor’s Submissions Concerning ‘Zagreb Exhibits’ and Presidential Transcripts”, 1 December 2000, para. 36: “We have to ensure the fairness of the trial to both parties, and we also have to ensure that this trial is conducted expeditiously”.

<sup>9</sup> *Sesay* Adjudicated Facts Decision, para. 32.

<sup>10</sup> *Taylor* Adjudicated Facts Decision, para. 34.

<sup>11</sup> *Taylor* Adjudicated Facts Decision, Separate and partly Dissenting Opinion of Justice Teresa Doherty, para. 4.

- c) Whether the proposed adjudicated facts are too broad, tendentious, conclusory, detailed or repetitive of evidence already heard in the case, or so numerous as to place a disproportionate burden on the opposing party to rebut them.<sup>12</sup>

## II. THE PROPOSED ADJUDICATED FACTS AND THE CRITERIA FOR JUDICIAL NOTICE

The Prosecution has set out in Annex A an overview of any objections in relation to the fulfilment of the admissibility requirements for judicial notice with respect to each proposed adjudicated fact.

## III. THE EXERCISE OF THE TRIAL CHAMBER'S DISCRETION

9. It would neither be in the interests of justice, nor would it promote judicial economy, for the Trial Chamber to exercise its discretion to take judicial notice in this instance. It is to be recalled that the initial Prosecution approach in 2003 was to join the AFRC and RUF Accused as they were charged with acting in concert as part of a common plan, purpose or design to commit the same crimes in the course of the same transaction.<sup>13</sup> However, based on the Trial Chamber's assessment that joinder was not in the interests of justice,<sup>14</sup> the Prosecution properly focused on the particular Accused in each of the two cases. The current trial brings the focus back to the relationship of the AFRC and RUF to the crimes committed in the course of their participation in a common plan, purpose or design; and obviously to the Accused's relationship to both groups and participation in the same common plan, purpose and design. Further, in contrast to the RUF case, the current trial focuses on the leadership role of the Accused and is not limited to his relationship to the RUF leaders on trial in the case against RUF Accused, namely Sesay, Kallon and Gbao. The current case is also concerned with the Accused's relationship with other RUF leaders such as Sam Bockarie and Superman. The facts before the Trial Chamber in this case therefore reflect a broader focus, and it is those facts which should be controlling.

*The proposed adjudicated facts go to issues central to the present case*

<sup>12</sup> *Taylor* Adjudicated Facts Decision, para. 29.

<sup>13</sup> *Prosecutor v. Sesay*, SCSL-2003-05-PT-079, "Prosecution Motion for Joinder", 9 October 2003, in particular paras. 18 – 22, is representative of the 6 motions filed.

<sup>14</sup> *Prosecutor v. Sesay et al*, SCSL-2003-05-PT-096, "Decision and Order on Prosecution Motions for Joinder", 27 January 2004.

10. Judicial notice of the proposed adjudicated facts would be inappropriate because, to the extent that they are relevant, they relate to central issues in this case,<sup>15</sup> namely the relationship between the AFRC and RUF, including the involvement of the AFRC and RUF in the operation/s culminating in the attack on Freetown in January 1999, and the relationship between the Accused and members of this alliance.<sup>16</sup> This Trial Chamber has received extensive testimony on these issues, including:
- a. the coordinated offensive of RUF and AFRC forces in late 1998 that led to the invading forces entering Freetown in January 1999<sup>17</sup>;
  - b. provision of arms and ammunition from various sources to these invading forces<sup>18</sup>;
  - c. the relationship and communications between Sam Bockarie and Alex Tamba Brima following the death of SAJ Musa, including that Brima was subordinate to and taking orders from Bockarie<sup>19</sup>;
  - d. Bockarie's orders to burn and commit other crimes<sup>20</sup>;
  - e. communications between RUF radio operators outside Freetown and radio operators in Freetown warning the forces in Freetown about ECOMOG jet raids;
  - f. the presence of RUF and Liberian fighters sent by Charles Taylor among the invading forces<sup>21</sup>;
  - g. the arrival and attacks in the peninsula of forces under Boston Flomo (aka RUF Rambo) and Dennis Mingo in an attempt to relieve or reinforce the forces within the city<sup>22</sup>;
  - h. the willing engagement by Flomo's fighters against the ECOMOG contingent at Jui in order to provide troop support to fighters in Freetown;

<sup>15</sup> *Sesay* Adjudicated Facts Decision, para. 21.

<sup>16</sup> These central issues are apparently in dispute, despite the following Agreed Facts from which this Defence team has never withdrawn:

30. Shortly after the AFRC seized power, the RUF joined with the AFRC in governing Sierra Leone.

31. On about 6 January 1999, inter alia, RUF and AFRC forces attacked Freetown.

*Prosecutor v Taylor*, SCSL-03-01-PT-227, "Joint Filing by the Prosecution & Defence Admitted Facts & Law", 26 April 2007.

<sup>17</sup> See e.g. Isaac Mongor.

<sup>18</sup> See e.g. Alice Pyne.

<sup>19</sup> See e.g. Dauda Fornie.

<sup>20</sup> See e.g. Alice Pyne.

<sup>21</sup> See e.g. AB Sesay.

<sup>22</sup> See e.g. P149 which states that fighters arrived in Waterloo "Displaced and Refugee Camp" on January 6; see also Alice Pyne who testified to fighters under Superman arriving at Yam's Farm on January 8, 1999.

i. the successful provision of a contingent of fighters under “Rambo Red Goat” to forces within Freetown<sup>23</sup>;

j. the role of these and other commanders in organizing a fighting withdrawal from Freetown after the initial force was driven out of the State House area by ECOMOG and the eventual regrouping of forces at Waterloo and subsequent attempt to re-attack Freetown<sup>24</sup>.

While some of these were not central issues in the trial against RUF accused, they are all clearly central to the charges against the Accused.

11. Several other examples further illustrate the central issues to which the requested facts relate. Facts 10 and 11 highlight the role and powers of Foday Sankoh as leader of the RUF, while the evidence in this case concerns the Accused’s influence over Sankoh and other RUF leaders and the Accused’s role in ordering, approving or encouraging promotions within the RUF. The same is true of Fact 24 concerning Bockarie’s role in issuing promotions. In relation to facts 18-19, this Trial Chamber has heard evidence from several different perspectives suggesting that large parts of the initial retreat were organized in that Sam Bockarie was coordinating the movements of Johnny Paul Koroma and other high level AFRC and RUF commanders.<sup>25</sup> Significantly this Trial Chamber has also heard evidence of the Accused’s direct participation and role in aspects of the initial retreat and the overall retreat.<sup>26</sup> Fact 25 concerns a rift between the AFRC and RUF that was found to exist on the basis of the specific evidence in the RUF case and which ultimately was found to have spelled the end of the joint criminal enterprise. Clearly this relates to a central issue which must be determined on the basis of the evidence in the present case. This is true also of Facts 30 and 31 which relate to continued cooperation between the forces from May to November 1998. Similarly, Fact 40 simply states a different Trial Chamber’s conclusion on the basis of the evidence before it. Fact 26, concerning the Fiti-Fata mission relates to a key issue and the factual circumstances and timing have emerged differently in the evidence in this case, including as to the

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<sup>23</sup> See e.g. Perry Kamara and A.B. Sesay.

<sup>24</sup> See e.g. A.B. Sesay.

<sup>25</sup> See e.g. Samuel Kargbo.

<sup>26</sup> See e.g. Samuel Kargbo.

relationship between Superman and Bockarie. This is true also of Fact 30. Overall, the more detailed evidence in this case comes from a variety of perspectives and paints a more complete and nuanced picture.

12. It would not be in the interests of justice in the present case to take judicial notice of facts relating to these central issues.<sup>27</sup> The Defence, relying on a decision in the *Krajisnik* case, points to the Chamber's duty to avoid that unnecessary time and resources are wasted on *undisputed facts*.<sup>28</sup> The proposed facts are not undisputed. In the *Sikirica* case, the Trial Chamber only took judicial notice of facts which were not the subject of reasonable dispute and not "facts which involve interpretation".<sup>29</sup> Similarly, in the case of *Ntakirutimana*, the Trial Chamber stated that it would avoid taking judicial notice of facts that are the subject of reasonable dispute, since: "Such matters should not be settled by judicial notice, but should be determined on the merits after the parties have had the opportunity to submit evidence and arguments."<sup>30</sup>
13. The Prosecution notes that this Trial Chamber has found, relying on Trial Chamber jurisprudence from the ICTY, that it is "not restricted to taking judicial notice of facts that are not the subject of dispute between the parties".<sup>31</sup> Nonetheless, the facts being put forward by the Defence which are not only disputed but also relate to a central issue are not suitable for judicial notice.

#### *The Late Stage of the Proceedings*

14. The interest of judicial economy would not be advanced by granting the Defence Application. The arguments put forward at paragraphs 11 and 12 of the Defence Application are unconvincing and contradictory. The Defence does not explain in any adequate detail how taking judicial notice at this stage of an already lengthy

<sup>27</sup> See *Popović* Adjudicated Facts Decision, para. 19, where the Trial Chamber excluded in the interests of justice a number of proposed adjudicated facts which went to issues which were at the core of the case.

<sup>28</sup> Defence Application, para. 18, referring to *Prosecutor v. Krajisnik*, IT-00-39-PT, "Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of witnesses pursuant to Rule 92bis", 28 February 2003, which in fact uses the phrase *unnecessary disputes*.

<sup>29</sup> *Prosecutor v. Sikirica et al.*, IT-95-8, "Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts", 27 September 2000.

<sup>30</sup> *Prosecutor v. Ntakirutimana*, ICTR-96-10-T, "Decision on the Prosecutor's Motion for Judicial Notice of Adjudicated Facts", 22 November 2001. ("*Ntakirutimana Decision*"), para. 29.

<sup>31</sup> *Taylor* Adjudicated Facts Decision, para. 27, relying on *Prosecutor v. Prlić*, IT-04-74-PT, "Decision on Motion for Judicial Notice of Adjudicated Facts pursuant to Rule 94(B)", 14 March 2006, para. 10. See also *Popović* Adjudicated Facts Decision, footnote 19.

- Defence case will ensure that the trial is not “unnecessarily long”. No details are provided as to which, and how many, witnesses would be dropped as a consequence.
15. Having stated that taking judicial notice would expedite the trial, the Defence notes that the Prosecution could challenge any rebuttable presumptions by calling rebuttal evidence. However, this argument negates the Defence argument that taking judicial notice of these facts at this very late stage promotes judicial economy. Any rebuttal case required by fairness specifically for the purpose of rebutting these contested adjudicated facts would consume additional time and resources which would not be justified by the mere presumption of accuracy accorded to those disputed facts.<sup>32</sup>
  16. The late stage of the filing of the motion for judicial notice of adjudicated facts in the *Sesay* case was emphasized strongly by Trial Chamber I, this being a significant factor in the exercise of the Trial Chamber’s discretion not to admit a number of facts that otherwise fulfilled the criteria for judicial notice.<sup>33</sup> In *Ntakirutimana*, where the motion was brought by the Prosecution after its case had concluded but before the Defence case had commenced, the Trial Chamber determined that “at this stage of the proceedings, [it] is not inclined to view judicial notice as significantly influencing judicial economy”.<sup>34</sup> In the *Hadzihasanovic* case, in which the Defence brought a motion for judicial notice of adjudicated facts after the Prosecution case and one defence case had been concluded, the Trial Chamber considered the advanced stage of the proceedings in regard to its obligation to ensure a fair trial.<sup>35</sup>
  17. The Prosecution is clearly disadvantaged by the late filing of the Defence Application. If the Application were to be granted at this late stage, the effect would be that the Prosecution presented its entire case and cross-examined the Accused as well as a number of other Defence witnesses without the knowledge of its burden to overcome a rebuttable presumption as to the veracity of certain now judicially noticed facts.

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<sup>32</sup> See *Krajisnik* Decision of 24 March 2005, para. 16. See also *Popović* Adjudicated Facts Decision, para. 16 and *Sesay* Adjudicated Facts Decision, para 33.

<sup>33</sup> *Sesay* Adjudicated Facts Decision, paras. 35 and 36.

<sup>34</sup> *Ntakirutimana* Decision, para. 31.

<sup>35</sup> *Prosecutor v. Enver Hadzihasanovic and Amir Kubura*, IT-01-47-T, “Decision on Judicial Notice of Adjudicated Facts following the Motion Submitted by Counsel for the Accused Hadzihasanovic and Kubura on 20 January 2005”, 14 April 2005.



*The Volume of Evidence Already on the Record*

18. The volume of evidence already led in respect of the issues contained in the proposed adjudicated facts is a further factor that militates against taking judicial notice. In this respect the overlap between certain of the proposed adjudicated facts and those facts judicially noticed from the AFRC Judgement (“AFRC facts”) should also be noted. An overlap is particularly evident in relation to the following: AFRC fact 5 and proposed fact 18; AFRC fact 6 and proposed fact 21; AFRC fact 7 and proposed fact 23; AFRC fact 11 and proposed facts 33 and 34; AFRC fact 12 and proposed fact 35; AFRC fact 15 and proposed facts 41 and 42. While the Defence suggests that the proposed facts “compliment or further support”<sup>36</sup> the AFRC facts, the effect is rather to introduce cumulative or overlapping evidence, expressed in terms specific to another trial, which confuses the evidentiary record in the current trial. Moreover, a presumption of accuracy accorded to a particular fact does not take on greater significance simply because similar findings have been made in two separate judgments, each of those judgments being concerned with the particular factual circumstances of a specific case. Therefore, adding duplicative adjudicated facts to the evidentiary record in the current case would neither serve the interests of justice nor enhance judicial economy.

**V. CONCLUSION**

19. At this late stage of the proceedings, judicial notice of facts going to contested core issues in this case upon which extensive evidence has been led is contrary to the interests of justice and the need to ensure fairness to both parties.<sup>37</sup> The late request for judicial notice is contrary to the requirements of judicial economy and could further prolong the proceedings if the Prosecution determines it must call rebuttal evidence in relation to these facts. In addition, the effect of judicial notice at this very advanced stage of the trial – during the Defence case, would simply be to “complicate the evidentiary record”<sup>38</sup> as well as the Trial Chamber’s task of assessing the evidence at the end of the case, contrary to the promotion of judicial economy.

<sup>36</sup> Defence Application, para. 9.

<sup>37</sup> See, for example, *Sesay* Adjudicated Facts Decision, para. 34.

<sup>38</sup> *Sesay* Adjudicated Facts Decision, para. 35. See also *Prosecutor v. Bizimungu et al*, ICTR-99-50-T, Decision on Prosecutor’s Motion and Notice of Adjudicated Facts, 10 December 2004, para. 22.

Furthermore, the Trial Chamber is being asked to perform a mental somersault; to adopt a rebuttable presumption *after* the presentation of the “rebutting” evidence during the Prosecution’s case in chief.

20. For these and all the reasons discussed above, the Defence Application should be rejected.

Filed in The Hague,

26 March 2010,

For the Prosecution,



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Brenda J. Hollis  
The Prosecutor

INDEX OF AUTHORITIES

SCSL

*Prosecutor v. Taylor*

*Prosecutor v. Taylor*, SCSL-03-1-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

*Prosecutor v Taylor*, SCSL-03-01-PT-227, “Joint Filing by the Prosecution & Defence Admitted Facts & Law”, 26 April 2007

*Prosecutor v. Sesay, Kallon, Gbao*

*Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T-1234, “Judgement”, 2 March 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. Sesay*, SCSL-2003-05-PT-079, “Prosecution Motion for Joinder”, 9 October 2003

*Prosecutor v. Sesay et al*, SCSL-2003-05-PT-096, “Decision and Order on Prosecution Motions for Joinder”, 27 January 2004

ICTY

*Prosecutor v. Slobodan Milosevic*, 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

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-02-54-AR73%235/MS1685R0000202649.tif>

*Prosecutor v. Momcilo Krajisnik*, IT-00-39-T, “Decision on Third and Fourth Prosecution Motions for Judicial Notice of Adjudicated Facts”, 24 March 2005

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-00-39/MR19525R0000116462.TIF>

*Prosecutor v. Delalic et al*, IT-96-21-T, “Decision on the Prosecution’s Motion for an order Requiring Advance Disclosure of Witnesses by the Defence”, 4 February 1998

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-96-21/MRA6904R0000059058.TIF>

*Prosecutor v. Kordic and Cerkez*, IT-95-14/2, “Decision on Prosecutor’s Submissions Concerning ‘Zagreb Exhibits’ and Presidential Transcripts”, 1 December 2000

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-95-14%232/MRA3678R0000030924.TIF>

*Prosecutor v. Popović et al.*, IT-05-88-T, “Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts with Annex”, 26 September 2006

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-05-88/MRA12219R0000170873.TIF>

*Prosecutor v. Aleksovski*, IT-95-14/1, “Decision on Prosecutor’s Appeal on Admissibility of Evidence”, 16 February 1999

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-95-14/MRA4419R0000035929.TIF>

*Prosecutor v. Krajisnik*, IT-00-39-PT, “Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of witnesses pursuant to Rule 92bis”, 28 February 2003

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-00-39/MRA787R0000188170.tif>

*Prosecutor v. Sikirica et al.*, IT-95-8, “Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts”, 27 September 2000

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-95-8/MRA2253R0000018770.Doc>

*Prosecutor v. Prlić*, IT-04-74-PT, “Decision on Motion for Judicial Notice of Adjudicated Facts pursuant to Rule 94(B), 14 March 2006

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-04-74/MRA11278R0000145855.TIF>

*Prosecutor v. Enver Hadzihasanovic and Amir Kubura*, IT-01-47-T, “Decision on Judicial Notice of Adjudicated Facts following the Motion Submitted by Counsel for the Accused Hadzihasanovic and Kubura on 20 January 2005”, 14 April 2005

<http://icr.icty.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/IT-01-47/MRA9601R0000121595.TIF>

## **ICTR**

*Prosecutor v. Ntakirutimana*, ICTR-96-10-T, “Decision on the Prosecutor’s Motion for Judicial Notice of Adjudicated Facts”, 22 November 2001

<http://www.icttr.org/ENGLISH/cases/NtakirutimanaE/decisions/221101.htm>

*Prosecutor v. Bizimungu et al*, ICTR-99-50-T, Decision on Prosecutor’s Motion and Notice of Adjudicated Facts, 10 December 2004

<http://www.icttr.org/ENGLISH/cases/Bizimungu/decisions/101204b.htm>

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ANNEX A

## ANNEX A

KEY: **Bold** = portion of relevant paragraphs of RUF judgment not included in fact proposed by Defence  
*Italics* = words added by the Defence that are not in original paragraph of RUF judgment

| No. | RUF Judgment Para. | Proposed Adjudicated Fact  | Prosecution Objections  |
|-----|--------------------|--|---|
| 1   | 651 (part)         | <p>The RUF documented its ideological goals and political objectives and disseminated them to its recruits.</p> <p>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.</p> <p>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.</p>  | <p>No objection</p> <p>Objection - goes to central issues.</p> <p>Objection - goes to central issues.</p> |
| 2   | 652                | <p>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 "t he 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.</p> | <p>No objection</p>   |

|   |            |  |   |
|---|------------|--|---|
| 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.   | Objection - goes to central issues.   |
| 4 | 656 (part) | <p>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</p> <p>the importance of discipline and respect for superior orders. <b>The Chamber has considered the military ideology in further detail in its findings on the disciplinary system within the RUF.</b> 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.</p> | <p>No objection</p> <p>Objection - goes to central issues.</p> <p>No objection if the omitted language is included.</p> |
| 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"> <li>To speak politely to masses</li> <li>To pay fairly for all [that] you buy</li> <li>To return everything that you borrow</li> <li>To pay for everything that you demand or damage</li> <li>Do not damage crops</li> <li>Do not take liberty from women</li> <li>Do not ill-treat captives</li> <li>Do not hate or swear people</li> </ul>  | No objection  |



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| 6 | 657,<br>661,<br>662,<br>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 the se 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> <p>When the RUF began organised 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>Object to Defence additions that are not in the facts found by Trial Chamber I.</p> <p>No objection</p> <p>No objection</p> <p>Objection - goes to central issues.</p> |
| 7 | 658,<br>651 (part) (the one sentence left out in # 1 is included here) | <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 it s 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>  | <p>Objection - goes to central issues.</p>  |

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| 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>   | No objection   |
| 9  | 736 (part) | <p>In February 1997, Sankoh was arrested at an airport in Nigeria on allegations that he was carrying arms. <b>The civilian representatives of the War Council issued an announcement over the radio claiming the right to assume control of the RUF. However, Bockarie had them arrested, and subsequently</b></p> <p>put himself in control of the movement.</p> <p>Although Sankoh continued to occupy the position of overall Leader and continued to communicate with the RUF via radio from Nigeria, Bockarie acted as the de facto Commander-in-Chief for the next two and a half years.</p> | <p>No objection</p> <p>Objection – word added by the Defence</p> <p>Objection – goes to central issues</p> <p>No objection</p> |
| 10 | 737 (part) | <p>In March 1997, Sankoh sent a radio message to Bockarie 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 de facto operating as BFC and BGC <b>since Tarawallie's death</b> in late 1996, thereupon, Sankoh officially confirmed these assignments.</p>  | Objection - goes to central issues.  |

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| 11 | 738           | <p>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. Vandji 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.</p>   | <p>Objection - goes to central issues.</p>   |
| 12 | 743, 744      | <p>In May 1997 (May 25), the <b>SLPP Government of President Ahmad Tejan Kabbah was overthrown by a military coup d'état led by soldiers of the Sierra Leone Army (SLA)</b>. SLA Corporal Tamba Gborie announced a coup <i>led by soldiers</i> 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.</p> <p>The chief plotters of the coup were all members of the football team of the 1<sup>st</sup> Battalion of the SLA and included Abu Sankoh aka Zagalo, Sergeant Tamba Alex Brima ("Gullit"), Sergeant Ibrahim Bazy Kamara ("Bazzy"), Santigie Kanu ("Five-Five"), Idrissa Kamara ("leather Boot") and Corporal Hassan Papah Bangura ("Bomb Blast") .</p> | <p>No objection if the full text is included</p> <p>Objection to the words "led by the soldiers" which was added by the Defence.</p> |
| 13 | 745, 747, 749 | <p>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.</p> <p>Shortly after the AFRC seized power, Johnny Paul Koroma contacted Sankoh in Nigeria <b>to invite the RUF</b> to form an alliance. Sankoh accepted the invitation.</p> <p>The RUF spokesperson, Eldred Collins, subsequently issued a radio broadcast</p>  | <p>No objection if full text in second paragraph is included</p>   |

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|    |                    | proclaiming that the AFRC and RUF movements would work cooperatively to defend Sierra Leone.  |  |
| 14 | 754                | 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 de facto executive and legislative authority within Sierra Leone during the Junta period.   | No objection   |
| 15 | 761,<br>762        | The Chief of Defence Staff, FSY [ <i>sic</i> ] Koroma, and the Army Chief of Staff, SO Williams, oversaw the military and reported to Johnny Paul Koroma.<br><br>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.<br><br>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. | No objection<br><br>Objection - goes to central issues.<br><br>Objection - goes to central issues. |
| 16 | 763,<br>764 (part) | 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 officer. 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. By early September 1997, Bockarie had also become disillusioned with the RUF's   | Objection - goes to central issues.  |

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|    |            | limited role in the AFRC government. Bockarie was particularly aggrieved by the AFRC's disregard for the RUF's advice on military matters.   |   |  |
| 17 | 776 (part) | 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. <b>Kabbah's Government was restored to power in March 1998.</b> | No objection if full text is included                   |  |
| 18 | 778        | The withdrawal of the RUF and AFRC troops from Freetown was unplanned and chaotic.<br><br>They left Freetown via the Peninsula road and travelled eastwards through Juba, York, Tombo and Newton on the Makeni highway towards Masiaka.  | Objection - goes to central issues.<br><br>No objection |  |
| 19 | 782        | 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.  | Objection - goes to central issues.                     |  |
| 20 | 789        | After less than a week in Makeni, several high ranking AFRC and RUF Commanders such as SAJ Musa, Superman, Bazy and Hassan Papah Bangura proceeded to Kabala in Koinadugu District. Koroma travelled to his native village Magbonkineh.  | Objection - goes to central issues.                     |  |

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| 21 | 792                                      | Prior to the joint attack on Kono District, a rift developed between SAJ Musa and the other AFRC and RUF 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.  | Objection - goes to central issues.   |
| 22 | 793 (part)                               | 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.  | No objection  |
| 23 | 804                                      | 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.   | Objection - goes to central issues.   |
| 24 | 806 (part)                               | 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.  | Objection - goes to central issues.   |
| 25 | 817 (part),<br>819 (part),<br>820 (part) | <b>In April 1998, shortly after the Junta forces were pushed out of Koidu Town, Gullit returned to Kono District and assumed command of the AFRC from Bazy.</b> <i>In April 1998</i> , the relationship between the AFRC and RUF was fractious. Kallon had executed two AFRC fighters and attempted to prevent the AFRC from holding muster parades, asserting that the AFRC had no right to assemble as the RUF was the only fighting force in Kono. These tensions coincided with sustained military pressure from ECOMOG on the RUF and AFRC positions. | Objection - goes to central issues and incomplete as the Defence did not include the bolded language in this finding. |

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|           |                              | <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.</p> <p>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. The split between the AFRC and RUF forces occurred when Gullit's troops left Kono District for <u>Koinadugu and Bombali Districts, prior to the end of April 1998.</u></p>   | <p>Objection - goes to central issues</p>  |
| <p>26</p> | <p>823,<br/>824,<br/>825</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 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>Objection - goes to central issues.</p> |

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| 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>  | <p>Objection - goes to central issues.</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>  | <p>Objection - goes to central issues.</p>  |
| 29 | 848 (part),<br>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.</p> <p>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. <b>At about this time, Gullit also communicated with Sesay and Kallon on the radio.</b></p> <p><b>After two months</b>, 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. <b>From Major Eddie Town, Gullit communicated with AFRC and RUF commanders including Superman, SAJ Musa, and Bockarie.</b></p> | <p>Objection - goes to central issues and object to language added by the Defence</p> <p>No objection if full text judicially noticed.</p> <p>No objection if full text judicially noticed.</p> |
| 30 | 851                       | <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</p>   | <p>Objection - goes to central issues.</p>  |



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|           | <p>Bockarie or Superman; while Bropleh and Superman largely subordinated their fighters to SAJ Musa's command.</p>   |            |   |
| <p>31</p> | <p>853</p> <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.</p> <p>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> | <p>853</p> | <p>Objection - goes to central issues.</p> <p>No objection</p>  |
| <p>32</p> | <p>854</p> <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.</p> <p>These individuals were no longer under the effective control of or working in concert with the RUF High Command in Buedu.</p>                                  | <p>854</p> | <p>Objection - goes to central issues.</p> <p>Objection - goes to central issues and legal conclusion</p> |
| <p>33</p> | <p>856</p> <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 signaller 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</p>                          | <p>856</p> | <p>No objection</p>   |

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| 34 |     | operators from using the communication sets and ordered that any RUF radio operator who approached a radio was to be killed.   |  |
| 35 | 858 | 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.  | No objection   |
| 36 | 859 | 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. | Objection - goes to central issues.  |
| 36 | 861 | By December 1998 Sesay had been recalled to Buedu from Pendembu and reinstated as BFC.<br><br>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.  | Objection - timing of Sesay's return goes to central issues.<br><br>No objection |

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| 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.</p> <p>Bockarie suspected that the call was a ruse and accused Gullit of attempting to deceive him.</p>  | <p>No objection except for the Defence's added language</p> <p>Objection - goes to central issues.</p>                                |
| 38 | 876,<br>877 | <p>On 5 January 1999, on the outskirts of Freetown, Gullit again called Bockarie. He informed him that his troops were poised to enter Freetown but lacked logistics, arms and ammunition and needed reinforcements.</p> <p>Bockarie told Gullit that his plan to attack Freetown was foolish.</p> <p>He nonetheless agreed to send reinforcements from Makeni and told Gullit to postpone the attack until their arrival. 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> | <p>Objection - timing of the communication goes to central issues.</p> <p>Objection - goes to central issues.</p> <p>No objection</p> |
| 39 | 879,<br>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 Upgun. The AFRC forces overwhelmed ECOMOG at Upgun 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</p>  | <p>To the extent these facts limit those who entered Freetown to the AFRC, objection as it goes to central issues.</p>                |

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|    |                      | <p>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>  | <p>Objection - goes to central issues and is a legal conclusion</p> |
| 41 | 882, 884, 892 (cont) | <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 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</p> | <p>Objection - goes to central issues.</p>                          |

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|    |                           | position to meet the AFRC fighters.   |  |
| 42 | 892 (part),<br>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> <p>The AFRC and RUF met in Waterloo about three weeks after the AFRC had first entered Freetown.</p>  | <p>Objection – inaccurately sets out the findings of Trial Chamber I in that the Defence uses two sentences from #892 (from 41); and the Defence uses the last sentence of #888</p> <p>Objection - goes to central issues.</p> |
| 43 | 904                       | <p>In February 1999, Bockarie promoted Sesay, Mike Lamin, Peter Vandri, Isaac Mongor, Superman, and Kallon to Brigadier.</p>  | <p>Objection - goes to central issues.</p>   |
| 44 | 910 (part)                | <p><b>In October 1999, Sankoh ordered Bockarie to send Sesay to Makeni to take command there. Sesay went to Makeni with Kallon, Gbao and other officers and fighters. Sankoh ordered Superman to cede command to Sesay and move to Lunsar. Superman, Isaac Mongor, Gibril Massaquoi and CO Rocky left Makeni and travelled to Lunsar.</b></p> <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> | <p>Objection – incomplete - the Defence omits language from the finding paragraph – no objection to the portion of the fact in bold.</p> <p>Objection - goes to central issues</p>   |

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| <p>45</p> | <p>908 (part),<br/>912</p>                        | <p>On 7 July 1999, the RUF and the Kabbah Government signed the Lome Peace Accord. <b>As a result of the power sharing arrangement therein, Sankoh became Chairman of the Strategic Mineral Resources Commission and RUF commanders including Mike Lamin and Peter Vandj were appointed as Government Ministers and Deputy Ministers. The accused did not receive Government positions.</b> The Lome Peace Accord provided for the RUF to be transformed into a political party, which became known as the RUFFP.</p> <p>In November 1999, the RUF transformed itself into the RUFFP.</p>  | <p>No objection if the complete text is judicially noticed. If not, objection to incomplete nature of the fact requested to be noticed.</p> |
| <p>46</p> | <p>913 (part)</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,</p> <p>Sankoh and rebels loyal to him made plans to attack Bockarie in Buedu. <b>However, Bockarie learned of this and fled to Liberia, announcing his resignation to the RUF in a radio message dated 19 December 1999.</b></p> | <p>Objection - goes to central issues</p>   |
| <p>47</p> | <p>916 (less the reference to Charles Taylor)</p> | <p>On 17 May 2000 Sankoh was arrested in Freetown on treason charges, leaving the RUF without official to 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 <b>Charles Taylor</b>...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>   | <p>Objection - goes to central issues and tendentious as it deliberately leaves out the reference to Taylor.</p>                            |

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| 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, 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> | <p>Tendentious as it ignores the considerable influence of the Accused at this point.</p> |
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